

# EXHIBIT 1

1 ROBBINS ARROYO LLP  
2 BRIAN J. ROBBINS (190264)  
3 brobbins@robbinsarroyo.com  
4 KEVIN A SEELY (199982)  
5 kseely@robbinsarroyo.com  
6 ASHLEY R. RIFKIN (246602)  
7 arifkin@robbinsarroyo.com  
8 600 B Street, Suite 1900  
9 San Diego, CA 92101  
10 Telephone: (619) 525-3990  
11 Facsimile: (619) 525-3991

12 *Counsel for Plaintiff Arnaud van der*  
13 *Gracht de Rommerswael*

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ARNAUD VAN DER GRACHT DE  
ROMMERSWAEL, Derivatively on  
Behalf of PUMA BIOTECHNOLOGY,  
INC.,

Plaintiff,

v.

ALAN H. AUERBACH, CHARLES R.  
EYLER, JAY M. MOYES, TROY E.  
WILSON, ADRIAN M.  
SENDEROWICZ, FRANK E. ZAVRL,  
and THOMAS R. MALLEY,

Defendants,

-and-

PUMA BIOTECHNOLOGY, INC., a  
Delaware corporation,

Nominal Defendant.

Case No. 8:18-cv-00236-AG-JCG

STIPULATION OF SETTLEMENT

1        This Stipulation of Settlement, dated September 28, 2018 (the "Stipulation"), is  
 2 made and entered into by and among the following Settling Parties,<sup>1</sup> by and through  
 3 their respective counsel of record: (i) plaintiffs Arnaud van der Gracht de  
 4 Rommerswael and Paul Duran (collectively, "Federal Plaintiffs"), individually and  
 5 derivatively on behalf of nominal defendant Puma Biotechnology ("Puma" or the  
 6 "Company"); (ii) plaintiffs Xing Xie and Kevin McKenney, individually and  
 7 derivatively on behalf of Puma (collectively, "State Plaintiffs"); (iii) Alan H.  
 8 Auerbach, Charles R. Eyler, Jay M. Moyes, Troy E. Wilson, Adrian M. Senderowicz,  
 9 Frank E. Zavrl, Thomas R. Malley (collectively, the "Individual Defendants"); and  
 10 (iv) Puma. This Stipulation is intended by the Settling Parties to fully, finally, and  
 11 forever resolve, discharge, and settle the Released Claims, subject to the terms and  
 12 conditions set forth herein.

13 **I. FACTUAL AND PROCEDURAL BACKGROUND**

14        Puma is a biopharmaceutical company that has focused its efforts almost  
 15 entirely on developing and marketing the drug, NERLYNX<sup>TM</sup> ("neratinib"), a drug  
 16 designed to treat patients with human epidermal growth factor receptor 2-positive  
 17 breast cancers. The derivative claims arise from allegedly false and misleading  
 18 statements regarding neratinib's safety and efficacy (and corresponding likelihood to  
 19 receive approval from the U.S. Food and Drug Administration ("FDA")) and other  
 20 alleged wrongdoing occurring between February 2014 and the dates Plaintiffs filed  
 21 their derivative actions (the "Relevant Time Period").

22 **A. Proceedings in the Related Federal Securities Class Action**

23        On June 3, 2015, Puma investors filed a securities class action, entitled *Hsu v.*  
 24 *Puma Biotechnology, Inc.*, No. 8:15-cv-00865-AG-SHK (the "Securities Action"),  
 25 which is pending in the Central District of California before the Honorable Andrew J.

---

26  
 27       <sup>1</sup> All capitalized terms not otherwise defined are defined in section V.1.  
 28

1 Guilford. Judge Guilford denied defendants' motions to dismiss the Securities Action  
 2 on September 30, 2016, and July 25, 2017, respectively, and granted plaintiff's motion  
 3 for class certification on December 8, 2017. The defendants in the Securities Action  
 4 filed their motion for summary judgment on July 10, 2018, which is set for hearing on  
 5 September 24, 2018.

6 **B. Proceedings in the State Derivative Actions**

7 On April 12, 2016, after significant analysis and investigation into the alleged  
 8 wrongdoing, plaintiff Xing Xie ("Xie") filed a Verified Stockholder Derivative  
 9 Complaint for Breach of Fiduciary Duty, Unjust Enrichment, Abuse of Control, Gross  
 10 Mismanagement, and Waste of Corporate Assets, alleging that demand on the Puma  
 11 Board to investigate the misconduct and take legal action against the individuals  
 12 responsible was futile, in the Los Angeles Superior Court (the "Superior Court"), titled  
 13 *Xie v. Auerbach*, Case No. BC616617 (Cal. Super. Ct.-L.A. Cty.). On April 14, 2016,  
 14 plaintiff Kevin McKenney ("McKenney") filed a factually-similar derivative action in  
 15 the Superior Court, titled *McKenney v. Auerbach*, Case No. BC617059 (Cal. Super.  
 16 Ct.-L.A. Cty.). On June 21, 2016 the Xie and McKenney actions were consolidated  
 17 (the "State Actions"). The State Actions have been stayed since June 21, 2016,  
 18 pending resolution of the Securities Action. Pursuant to the terms that were  
 19 negotiated in the stipulation to stay that was granted by the Superior Court,  
 20 Defendants provided counsel in the State Actions with several hundred thousand  
 21 pages of Bates-stamped documents that were produced in connection with the  
 22 Securities Action.

23 **C. Proceedings in the Federal Derivative Actions**

24 On August 29, 2017, after significant analysis and investigation into the alleged  
 25 wrongdoing, including investigation into whether the Puma Board was sufficiently  
 26 independent to consider a litigation demand, plaintiff Arnaud van der Gracht de  
 27 Rommerswael ("van der Gracht de Rommerswael") sent a litigation demand letter to  
 28

1 the Board demanding that it engage independent outside legal counsel, investigate the  
 2 misconduct, and take legal action against the individuals responsible ("Litigation  
 3 Demand"). The Litigation Demand was rejected by the Board through a letter dated  
 4 January 9, 2018.

5 On February 9, 2018, van der Gracht de Rommerswael filed his Verified  
 6 Stockholder Derivative Complaint for Violation of Securities Law, Breach of  
 7 Fiduciary Duty, Waste of Corporate Assets, and Unjust Enrichment in the Central  
 8 District of California, alleging that the Litigation Demand was wrongfully refused (the  
 9 "van der Gracht de Rommerswael Action"). Plaintiff van der Gracht de  
 10 Rommerswael alleges that the Board failed to perform a good faith, independent  
 11 investigation of the claims contained in the Litigation Demand, but instead based its  
 12 decision to reject the Litigation Demand on a biased investigation previously  
 13 conducted by counsel for Puma to develop a defense in the Securities Action.

14 The van der Gracht de Rommerswael Action is pending before Judge Guilford,  
 15 who is also presiding over the Securities Action.

16 On May 30, 2018, after significant analysis and investigation into the alleged  
 17 wrongdoing, plaintiff Paul Duran ("Duran") filed a Verified Stockholder Derivative  
 18 Complaint for Breach of Fiduciary Duty, Unjust Enrichment, Abuse of Control, Gross  
 19 Mismanagement, and Waste of Corporate Assets, alleging that demand on the Puma  
 20 Board to investigate the misconduct and take legal action against the individuals  
 21 responsible was futile in the Central District of California (the "Duran Action"). The  
 22 Duran Action is also pending before Judge Guilford.

23 **D. Settlement Efforts**

24 Given the unique circumstances of this case, including recent, positive  
 25 developments at Puma as it gained momentum toward commercially launching its  
 26 drug, neratinib, in the United States and abroad, counsel for plaintiffs believed that an  
 27 early resolution of the derivative claims could be in Puma's best interests. As such,

1 counsel for the plaintiffs in the State Actions and counsel for the van der Gracht de  
 2 Rommerswael Action sent separate settlement demands on February 23, 2018, and  
 3 April 5, 2018, respectively. Over the next few months, counsel engaged in numerous  
 4 telephonic and written exchanges regarding the terms to be included in any settlement,  
 5 with a careful eye toward ensuring the settlement included comprehensive corporate  
 6 governance reforms tailored to preventing the alleged wrongdoing from recurring by  
 7 significantly improving the Board's independence and oversight over the Company's  
 8 research and development efforts and public disclosures, and significantly improving  
 9 the overall governance structure of the Company. After continued arm's-length  
 10 settlement negotiations, on or about June 29, 2018, the parties agreed upon the  
 11 corporate governance reforms to be implemented as part of the Settlement. *See*  
 12 Exhibit A, attached hereto.

13 After negotiating the principal terms of the Settlement, on July 25, 2018, the  
 14 Settling Parties engaged in an all-day, in person formal mediation before Gregory P.  
 15 Lindstrom (the "Mediator") to negotiate the remaining terms of the Settlement,  
 16 including the amount of attorneys' fees (inclusive of expenses) that Puma will pay to  
 17 Plaintiffs' Counsel in connection with the Settlement. Prior to the mediation, the  
 18 Settling Parties submitted and exchange mediations briefs. While progress was made,  
 19 the Settling Parties were unable to resolve the matter at that time. Following the  
 20 mediation, the Mediator continued to work with the Settling Parties and assisted the  
 21 Settling Parties in reaching an agreement in principle to settle all derivative claims on  
 22 July 30, 2018.

23 **II. PLAINTIFFS' CLAIMS AND THE BENEFITS OF SETTLEMENT**

24 Plaintiffs believe that the Actions have substantial merit, and Plaintiffs' entry  
 25 into this Stipulation and Settlement is not intended to be and shall not be construed as  
 26 an admission or concession concerning the relative strength or merit of the claims  
 27 alleged in the Actions. However, Plaintiffs and Plaintiffs' Counsel recognize and  
 28

1 acknowledge the significant risk, expense, and length of continued proceedings  
 2 necessary to prosecute the Actions against the Individual Defendants through trial and  
 3 through possible appeals. Plaintiffs' Counsel also have taken into account the  
 4 uncertain outcome and the risk of any litigation, especially in complex cases such as  
 5 the Actions, as well as the difficulties and delays inherent in such litigation. Plaintiffs'  
 6 Counsel are also mindful of the inherent problems of establishing standing in  
 7 derivative litigation, and the possible defenses to the claims alleged in the Actions.

8 Plaintiffs' Counsel have conducted extensive investigation and analysis,  
 9 including, *inter alia*: (i) reviewing Puma's press releases, public statements, U.S.  
 10 Securities and Exchange Commission ("SEC") filings, and securities analysts' reports  
 11 and advisories about the Company, its financial condition, and the status and results of  
 12 Puma's research and development efforts relating to its drug, neratinib; (ii) reviewing  
 13 related media reports about the Company; (iii) researching applicable law with respect  
 14 to the claims alleged in the Actions and potential defenses thereto; (iv) researching  
 15 and preparing correspondence related to plaintiff van der Gracht de Rommerswael's  
 16 litigation demand; (v) preparing and filing derivative complaints; (vi) reviewing  
 17 documents produced to plaintiffs in the State Actions pursuant to the stipulation to  
 18 stay that was granted by the Superior Court; (vii) conducting damages analyses;  
 19 (viii) reviewing and analyzing relevant documents in the Securities Action—including  
 20 the motion to dismiss briefing and the Court's order denying the defendants' motion to  
 21 dismiss—and evaluating the merits of, and the defendants' potential liability in  
 22 connection with, the Securities Action; (ix) researching corporate governance best  
 23 practices; (x) researching and preparing correspondence related to the settlement  
 24 demands; (xi) participating in a day-long mediation and several follow-up discussions;  
 25 and (xii) negotiating this Settlement with Defendants. Based on Plaintiffs' Counsel's  
 26 thorough review and analysis of the relevant facts, allegations, defenses, and  
 27 controlling legal principles, Plaintiffs' Counsel believe that the Settlement set forth in  
 28

1 this Stipulation is fair, reasonable, and adequate, and confers substantial benefits upon  
2 Puma. Based upon Plaintiffs' Counsel's evaluation, Plaintiffs have determined that the  
3 Settlement is in the best interests of Puma and have agreed to settle the Actions upon  
4 the terms and subject to the conditions set forth herein.

5 **III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

6 Defendants have denied and continue to deny each and all of the claims and  
7 contentions alleged by Plaintiffs in the Actions. The Individual Defendants have  
8 expressly denied and continue to deny all charges of wrongdoing or liability against  
9 them arising out of any of the conduct, statements, acts, or omissions alleged, or that  
10 could have been alleged in the Actions.

11 Nonetheless, Defendants have concluded that further litigation of the Actions  
12 would be protracted and expensive, and that it is desirable for the Actions to be fully  
13 and finally settled in the matter and upon the terms and conditions set forth in this  
14 Stipulation. Defendants have also taken into account the uncertainty and risks  
15 inherent in any litigation, especially in complex cases like the Actions. Defendants  
16 have, therefore, determined that it is desirable and beneficial that the actions be settled  
17 in the manner and upon the terms and conditions set forth in this Stipulation.

18 Neither this Stipulation, nor any of its terms or provisions, nor entry of the  
19 Judgment, nor any document or exhibit referred or attached to this Stipulation, nor any  
20 action taken to carry out this Stipulation, is, may be construed as, or may be used as  
21 evidence of the validity of any of the Released Claims or an admission by or against  
22 the Individual Defendants of any fault, wrongdoing, or concession of liability  
23 whatsoever.

24 **IV. INDEPENDENT DIRECTOR APPROVAL**

25 Puma, acting through its independent, non-defendant directors, reviewed the  
26 allegations and the settlement terms, and in a good faith exercise of business judgment  
27

1 determined that the Settlement and each of its terms, as set forth in this Stipulation, to  
2 be in the best interests of Puma.

3 **V. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

4 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and  
5 among the undersigned counsel for the Settling Parties herein, in consideration of the  
6 benefits flowing to the parties from the Settlement, and subject to the approval of the  
7 Court pursuant to Rule 23.1 of the Federal Rules of Civil Procedure, that the claims  
8 asserted in the Actions and the Released Claims shall be finally and fully  
9 compromised, settled, and released, and the Actions shall be dismissed with prejudice  
10 and with full preclusive effect as to all Settling Parties, upon and subject to the terms  
11 and conditions of this Stipulation, as set forth below.

12 **1. Definitions**

13 As used in this Stipulation, the following terms have the meanings specified  
14 below:

15 1.1 "Actions" means, collectively, the Federal Actions and the State Actions.

16 1.2 "Applicable Puma Shareholders" means any Person who owned Puma  
17 common stock as of the date of the execution of this Stipulation and continues to hold  
18 their Puma common stock as of the date of the Settlement Hearing, excluding the  
19 Individual Defendants, the officers and directors of Puma, members of their  
20 immediate families, and their legal representatives, heirs, successors, or assigns, and  
21 any entity in which Individual Defendants have or had a controlling interest.

22 1.3 "Board" means Puma's Board of Directors.

23 1.4 "Court" means the U.S. District Court for the Central District of  
24 California.

25 1.5 "Defendants" means, collectively, nominal defendant Puma and the  
26 Individual Defendants.

27 1.6 "Defendants' Counsel" means Cooley LLP and Latham & Watkins LLP.

1       1.7 "Effective Date" means the date by which the events and conditions  
2 specified in paragraph 6.1 of this Stipulation have been met and have occurred.

3       1.8 "Federal Actions" means the derivative actions styled as *van der Gracht*  
4 *de Rommerswael v. Auerbach*, Case No. 8:18-cv-00236-AG-JCG (C.D. Cal.) and  
5 *Duran v. Auerbach*, Case No. 2:18-cv-04802-AG-DFM (C.D. Cal.).

6       1.9 "Federal Plaintiffs" means Arnaud van der Gracht de Rommerswael and  
7 Paul Duran.

8       1.10 "Federal Plaintiffs' Counsel" means Robbins Arroyo LLP, The Rosen  
9 Law Firm, P.A., and The Brown Law Firm, P.C.

10       1.11 "Final" means the date upon which the last of the following shall occur  
11 with respect to the Judgment approving this Stipulation, substantially in the form of  
12 Exhibit E attached hereto: (1) the expiration of the time to file a notice of appeal from  
13 the Judgment; or (2) if an appeal has been filed, the court of appeals has either  
14 affirmed the Judgment or dismissed that appeal and the time for any reconsideration  
15 or further appellate review has passed; or (3) if a higher court has granted further  
16 appellate review, that court has either affirmed the underlying Judgment or affirmed  
17 the court of appeal's decision affirming the Judgment or dismissing the appeal. For  
18 purposes of this paragraph, an "appeal" shall not include any appeal that concerns only  
19 the issue of attorneys' fees and expenses or the payment of service awards to  
20 Plaintiffs. Any proceeding or order, or any appeal or petition for a writ of certiorari  
21 pertaining solely to the application for attorneys' fees, costs, or expenses, shall not in  
22 any way delay or preclude the Judgment from becoming Final.

23       1.12 "Individual Defendants" means Alan H. Auerbach, Charles R. Eyler, Jay  
24 M. Moyes, Troy E. Wilson, Adrian M. Senderowicz, Frank E. Zavrl, and Thomas R.  
25 Malley.

26       1.13 "Judgment" means the Order and Final Judgment to be rendered by the  
27 Court, substantially in the form attached hereto as Exhibit E.

1       1.14 "Notice" means the Notice of Pendency and Proposed Settlement of  
2 Shareholder Derivative Action, substantially in the form attached hereto as Exhibit C.

3       1.15 "Person" means an individual, corporation, limited liability corporation,  
4 professional corporation, partnership, limited partnership, limited liability partnership,  
5 association, joint stock company, estate, legal representative, trust, unincorporated  
6 association, government or any political subdivision or agency thereof and any  
7 business or legal entity and their spouses, heirs, predecessors, successors,  
8 representatives, or assignees.

9       1.16 "Plaintiffs" means collectively, the Federal Plaintiffs and the State  
10 Plaintiffs.

11       1.17 "Plaintiffs' Counsel" means, collectively, any counsel who has appeared  
12 at any time for any of the Plaintiffs in the Federal Actions or the State Actions.

13       1.18 "Preliminary Approval Order" means the order to be entered by the  
14 Court, substantially in the form attached hereto as Exhibit B, which preliminarily  
15 approves the terms and conditions of the Settlement as set forth in this Stipulation,  
16 directing that Notice be provided to Applicable Puma Shareholders, and scheduling a  
17 Settlement Hearing to consider whether the Settlement and all of its terms should be  
18 finally approved.

19       1.19 "Puma" or the "Company" means nominal defendant Puma  
20 Biotechnology, Inc., a Delaware corporation, and its affiliates, subsidiaries,  
21 predecessors, successors, and assigns.

22       1.20 "Related Persons" means: (i) with regard to each Individual Defendant,  
23 the Individual Defendants' spouses, marital communities, immediate family members,  
24 heirs, executors, personal representatives, estates, administrators, trusts, predecessors,  
25 successors, and assigns or other individual or entity in which any Individual  
26 Defendant has a controlling interest, and each and all of their respective past and  
27 present officers, directors, employees, agents, affiliates, parents, subsidiaries,  
28

1 divisions, attorneys, accountants, auditors, advisors, insurers, co-insurers, re-insurers,  
 2 heirs, executors, personal representatives, estates, administrators, trusts, predecessors,  
 3 successors, and assigns; and (ii) with regard to Puma, all past or present agents,  
 4 officers, directors, attorneys, accountants, auditors, advisors, insurers, co-insurers,  
 5 reinsurers, partners, controlling shareholders, joint venturers, related or affiliated  
 6 entities, advisors, employees, affiliates, predecessors, successors, parents, subsidiaries,  
 7 insurers, and assigns for Puma.

8       1.21 "Released Claims" means any and all actions, suits, claims, debts, rights,  
 9 liabilities, and causes of action, whether under federal, state, local, statutory, common  
 10 law, foreign law, or any other law, rule or regulation, including both known and  
 11 Unknown Claims (as defined in paragraph 1.32 below), that: (a) were asserted or  
 12 could have been asserted by any shareholder derivatively on behalf of Puma, or by  
 13 Puma, against any Released Person; and (b) concern, arise out of, or relate to (i) the  
 14 allegations asserted in the Derivative Actions or the matters and occurrences that were  
 15 alleged in the Actions, or (ii) the Settlement, defense or resolution of the Actions,  
 16 except for any claims to enforce the Settlement. Excluded from the term "Released  
 17 Claims" are all claims alleged in the Securities Action.

18       1.22 "Released Persons" means collectively, Puma, the Individual Defendants,  
 19 and their Related Persons. "Released Person" means, individually, any of the  
 20 Released Persons.

21       1.23 "Releasing Persons" means Plaintiffs (individually, collectively, and  
 22 derivatively on behalf of Puma), all other Applicable Puma Shareholders, Plaintiffs'  
 23 Counsel, and Puma. "Releasing Person" means, individually, any of the Releasing  
 24 Persons.

25       1.24 "Securities Action" means the securities class actions styled as *Hsu v.*  
 26 *Puma Biotechnology, Inc.*, No. 8:15-cv-00865-AG-SHK (C.D. Cal.).

1       1.25 "Settlement" means the settlement and compromise of the Federal  
2 Actions and the State Actions as provided for herein.

3       1.26 "Settlement Hearing" means the hearing or hearings at which the Court  
4 will review the adequacy, fairness, and reasonableness of the Settlement.

5       1.27 "Settling Parties" means, collectively, each and all of the Plaintiffs (on  
6 behalf of themselves and derivatively on behalf of Puma) and Defendants. "Settling  
7 Party" means, individually, any of the Settling Parties.

8       1.28 "State Plaintiffs" means Xing Xie and Kevin McKenney.

9       1.29 "State Plaintiffs' Counsel" means The Rosen Law Firm, P.A. and The  
10 Brown Law Firm, P.C.

11       1.30 "Summary Notice" means the Summary Notice of Pendency and  
12 Proposed Settlement of Shareholder Derivative Action, substantially in the form  
13 attached hereto as Exhibit D.

14       1.31 "Superior Court" means the Superior Court of the State of California,  
15 County of Los Angeles.

16       1.32 "Unknown Claims" means any Released Claim(s) which Plaintiffs or  
17 Defendants do not know of or suspect to exist in his, her, or its favor at the time of the  
18 release of the Released Persons. With respect to any and all Released Claims, the  
19 Settling Parties agree that upon the Effective Date, the Settling Parties expressly  
20 waive the provisions, rights and benefits conferred by or under California Civil Code  
21 section 1542, or any other law of the United States or any state or territory of the  
22 United States, or principle of common law, which is similar, comparable, or  
23 equivalent to section 1542, which provides:

24  
25       A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH  
26       THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN  
27       HIS OR HER FAVOR AT THE TIME OF EXECUTING THE  
28       RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE  
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE  
DEBTOR.

1 The Settling Parties acknowledge that they may hereafter discover facts in addition to  
 2 or different from those now known or believed to be true by them, with respect to the  
 3 subject matter of the Released Claims, but it is the intention of the Settling Parties to  
 4 completely, fully, finally, and forever compromise, settle, release, discharge, and  
 5 extinguish any and all Released Claims, known or unknown, suspect or unsuspected,  
 6 contingent or absolute, accrued or unaccrued, apparent or unapparent, which do now  
 7 exist, or heretofore existed, or may hereafter exist, and without regard to the  
 8 subsequent discovery of additional or different facts. The Settling Parties  
 9 acknowledge that the foregoing waiver was separately bargained for and is a key  
 10 element of this Stipulation of which this release is a part.

11 **2. Terms of the Settlement**

12 2.1 As a result of the filing, prosecution, and settlement of the Actions, Puma  
 13 shall, within forty-five (45) calendar days after the Effective Date, formally express  
 14 and/or implement and maintain in substance the corporate governance reforms  
 15 identified in Exhibit A attached hereto for a period of not less than five (5) years.  
 16 Puma and the Individual Defendants acknowledge and agree that the corporate  
 17 governance reforms identified in Exhibit A attached hereto are significant and  
 18 extensive and confer substantial benefits upon Puma and its shareholders. Puma and  
 19 the Individual Defendants also acknowledge that the prosecution and settlement of the  
 20 Actions was a substantial and material factor in the Company's decision to adopt  
 21 and/or implement the corporate governance reforms set forth in Exhibit A.

22 2.2 The Settling Parties further agree that the Settlement shall be conditioned  
 23 on Plaintiffs' Counsel conducting reasonable discovery of Puma as is appropriate and  
 24 necessary to confirm the fairness and reasonableness of the terms of the Settlement.  
 25 The Settling Parties have agreed upon an initial production of documents and will  
 26 continue to meet and confer in good faith in the event Plaintiffs believe additional  
 27 documents are necessary.

### 3. Approval and Notice

3.1 Promptly after execution of this Stipulation, and Plaintiffs' Counsel's confirmation that the Settlement is fair, reasonable, and in the best interests of Puma (after their tailored review of the discovery discussed in paragraph 2.2 above), the Settling Parties shall submit this Stipulation together with its exhibits to the Court and shall jointly apply for entry of an order (the "Preliminary Approval Order"), substantially in the form of Exhibit B attached hereto, requesting: (i) preliminary approval of the Settlement set forth in this Stipulation; (ii) approval of the form and manner of providing notice of the Settlement to Applicable Puma Shareholders; and (iii) a date for the Settlement Hearing, pursuant to Rule 23.1 of the Federal Rules of Civil Procedure.

3.2 Notice to Applicable Puma Shareholders shall consist of a Notice of Pendency and Proposed Settlement of Shareholder Derivative Action ("Notice"), which includes the general terms of the Settlement set forth in this Stipulation and the date of the Settlement Hearing, substantially in the form attached hereto as Exhibit C, as well as a Summary Notice of Pendency and Proposed Settlement of Shareholder Derivative Action ("Summary Notice"), substantially in the form attached hereto as Exhibit D.

3.3 Puma shall undertake the administrative responsibility for giving notice to Applicable Puma Shareholders and shall be solely responsible for paying the costs and expenses related to providing such notice to its shareholders. Within ten (10) business days after the entry of the Preliminary Approval Order, Puma shall cause the Stipulation and Notice to be filed with the SEC along with an SEC Form 8-K or other appropriate filing, Puma shall publish the Summary Notice one time in the national edition of *Investor's Business Daily*, and Puma shall also publish the Stipulation and Notice on an internet page that Puma shall create for this purpose, which shall be accessible via a link on the "Investors" page of Puma's website, the address of which shall be contained in the Notice and Summary Notice. If additional notice is required

1 by the Court, then the cost and administration of such additional notice will be borne  
 2 by Puma. The Settling Parties believe the content and manner of the notice, as set  
 3 forth in this paragraph, constitutes adequate and reasonable notice to Puma  
 4 shareholders pursuant to applicable law and due process. Prior to the Settlement  
 5 Hearing, Defendants' Counsel shall file with the Court an appropriate affidavit or  
 6 declaration with respect to filing, publishing, and posting the Notice and Summary  
 7 Notice.

8       3.4 Within four (4) business days after the Judgment becomes Final, the  
 9 parties to the State Actions and the Duran Action, respectively, shall jointly apply to  
 10 their respective courts for a dismissal with prejudice of the State Actions and the  
 11 Duran Action, respectively, and shall use their reasonable best efforts to take, or cause  
 12 to be taken, all actions, and to do, or cause to be done, all things reasonably necessary,  
 13 proper, or advisable under applicable laws, regulations and agreements, to secure such  
 14 dismissal with prejudice.

15       3.5 Pending the Court's determination as to final approval of the Settlement,  
 16 Plaintiffs are barred and enjoined from commencing, prosecuting, instigating, or in  
 17 any way participating in the commencement or prosecution of any action asserting any  
 18 Released Claim against any of the Released Persons.

19       **4. Attorneys' Fees and Reimbursement of Expenses**

20       4.1 In recognition of the substantial benefits conferred upon Puma as a direct  
 21 result of the prosecution and Settlement of the Actions, and subject to Court approval,  
 22 the Individual Defendants shall cause their insurers to pay Plaintiffs' Counsel the  
 23 agreed-to amount of \$1,175,000 (the "Fee and Expense Amount"). The Fee and  
 24 Expense Amount shall constitute final and complete payment for Plaintiffs' attorneys'  
 25 fees and expenses that have been incurred or will be incurred in connection with the  
 26 Actions. The Fee and Expense Amount shall be funded to Plaintiffs' Counsel within  
 27 ten (10) business days of the entry of the Judgment and upon provision by the  
 28

1 respective Plaintiffs' Counsel of all required funding information and tax identification  
2 numbers, notwithstanding the existence of any timely filed objections thereto, or  
3 potential for appeal therefrom, or collateral attack on the settlement or any part  
4 thereof.

5       4.2 The Settling Parties further stipulate that Plaintiffs' Counsel may apply to  
6 the Court for a service award of up to \$1,500 for each of the Plaintiffs, only to be paid  
7 upon Court approval, and to be paid from the Fee and Expense Amount in recognition  
8 of Plaintiffs' participation and effort in the prosecution of the Actions. The failure of  
9 the Court to approve any requested service award, in whole or in part, shall have no  
10 effect on the Settlement. Neither Puma nor any of the Individual Defendants shall be  
11 liable for any portion of any service award.

12       4.3 In the event that the Judgment fails to become Final, then it shall be the  
13 obligation of each of the respective Plaintiffs' Counsel to make appropriate refunds or  
14 repayments to the Defendants' insurers of any attorneys' fees and expenses previously  
15 paid within ten (10) business days from receiving notice from Defendants' Counsel or  
16 from a court of appropriate jurisdiction. Plaintiffs' Counsel, as a condition of  
17 receiving any part of the Fee and Expense Amount, on behalf of themselves and each  
18 partner and/or shareholder of them, agrees that Plaintiffs' Counsel and their partners  
19 and/or shareholders are subject to the jurisdiction of the Court for the purpose of  
20 enforcing the provisions of this paragraph.

21       4.4 Defendants shall have no responsibility for, and no liability whatsoever  
22 with respect to, the allocation of the Fee and Expense Amount among Plaintiffs'  
23 Counsel and/or to any other person who may assert some claim thereto, except as  
24 otherwise agreed to in writing.

25       **5.      Releases**

26       5.1 Upon the Effective Date, the Releasing Persons shall be deemed to have  
27 fully, finally, and forever released, relinquished, and discharged the Released Claims  
28

1 (including Unknown Claims) against the Released Persons and any and all derivative  
2 claims arising out of, relating to, or in connection with the defense, settlement, or  
3 resolution of the Federal Actions and the State Actions against the Released Persons.  
4 Nothing herein shall in any way impair or restrict the rights of any Settling Party to  
5 enforce the terms of this Stipulation.

6       5.2 Except as set forth in paragraph 5.3, below, upon the Effective Date, each  
7 of the Defendants shall be deemed to have fully, finally, and forever released,  
8 relinquished, and discharged Federal Plaintiffs, Federal Plaintiffs' Counsel, State  
9 Plaintiffs, and State Plaintiffs' Counsel from all claims (including claims related to  
10 Unknown Claims), arising out of, relating to, or in connection with the institution,  
11 prosecution, assertion, settlement, or resolution of the Federal Actions, the State  
12 Actions, or the Released Claims. Nothing herein shall in any way impair or restrict  
13 the rights of any Settling Party to enforce the terms of this Stipulation.

14       5.3 Nothing in this Stipulation or in paragraph 5.2 above constitutes or  
15 reflects a waiver or release of any rights or claims of Defendants against their insurers,  
16 or their insurers' subsidiaries, predecessors, successors, assigns, affiliates, or  
17 representatives, including, but not limited to, any rights or claims of Defendants under  
18 any directors' and officers' liability insurance or other applicable insurance coverage  
19 maintained by the Company. Nothing in this Stipulation or in paragraph 5.2 above  
20 constitutes or reflects a waiver or release of any rights or claims of the Individual  
21 Defendants relating in any way to indemnification, whether under any written  
22 indemnification or advancement agreement, or under the Company's charter, by-laws,  
23 or under applicable law.

24       6. **Conditions of Settlement; Effect of Disapproval, Cancellation, or**  
25 **Termination**

26       6.1 The Effective Date shall be conditioned on the occurrence of all of the  
27 following events:

3 (b) Court entry of the Preliminary Approval Order;

15 (f) Court approval and payment of the Fee and Expense Amount in  
16 accordance with paragraph 4;

17 (g) the passing of the date upon which the Judgment becomes Final;

18 (h) State Court issuance of an order dismissing the State Actions with  
19 prejudice; and

22        6.2 If any of the conditions specified above in paragraph 6.1 are not met,  
23 then this Stipulation shall be canceled and terminated subject to paragraph 6.3, unless  
24 counsel for the Settling Parties mutually agree in writing to proceed with this  
25 Stipulation.

26        6.3    If for any reason the Effective Date does not occur, or if this Stipulation  
27 is in any way canceled, terminated or fails to become Final in accordance with its

1 terms, then: (a) all Settling Parties and Released Persons shall be restored to their  
 2 respective positions in the Federal Actions and the State Actions as of July 30, 2018;  
 3 (b) all releases delivered in connection with this Stipulation shall be null and void,  
 4 except as otherwise provided for in this Stipulation; (c) the Fee and Expense Amount  
 5 paid to Plaintiffs' Counsel shall be refunded and returned within ten (10) business  
 6 days; and (d) all negotiations, proceedings, documents prepared, and statements made  
 7 in connection herewith shall be without prejudice to the Settling Parties, shall not be  
 8 deemed or construed to be an admission by a Settling Party of any act, matter, or  
 9 proposition, and shall not be used in any manner for any purpose in any subsequent  
 10 proceeding in the Federal Actions, the State Actions, or in any other action or  
 11 proceeding. In such event, the terms and provisions of this Stipulation shall have no  
 12 further force and effect with respect to the Settling Parties and shall not be used in the  
 13 Federal Actions, the State Actions or in any other proceeding for any purpose.

14       **7. Bankruptcy**

15       7.1 In the event any proceedings by or on behalf of Puma, whether  
 16 voluntary or involuntary, are initiated under any chapter of the United States  
 17 Bankruptcy Code, including any act of receivership, asset seizure, or similar federal  
 18 or state law action ("Bankruptcy Proceedings"), the Settling Parties agree to use their  
 19 reasonable best efforts to obtain all necessary orders, consents, releases, and  
 20 approvals for effectuation of this Stipulation and Court approval of the Settlement in  
 21 a timely and expeditious manner. By way of example only, the Settling Parties agree  
 22 to cooperate in making applications and motions to the bankruptcy court for relief  
 23 from any stay, approval of the Settlement, authority to release funds, authority for  
 24 the Defendants' insurer(s) to disburse insurance proceeds consistent with this  
 25 Stipulation, authority to release claims and indemnify officers and directors, and  
 26 authority for the Court and the Superior Court to enter all necessary orders and  
 27  
 28

1 judgments, and any other actions reasonably necessary to effectuate the terms of the  
 2 Settlement.

3       7.2 If any Bankruptcy Proceedings by or on behalf of Puma are initiated  
 4 prior to the payment of the Fee and Expense Amount, the Settling Parties shall agree  
 5 to seek an order from the bankruptcy court presiding over such Bankruptcy  
 6 Proceedings: (i) either lifting the automatic stay for the limited purpose of  
 7 authorizing such payment, or finding that the payment of the Fee and Expense  
 8 Amount by the Defendants' insurer under their respective policies or related  
 9 compromise of coverage does not violate the automatic stay; and (ii) finding that the  
 10 payment of the Fee and Expense Amount by the Defendants' insurer under their  
 11 respective policies or related compromise of coverage does not constitute a  
 12 preference, voidable transfer, fraudulent transfer, or similar transaction. In addition,  
 13 in the event of any Bankruptcy Proceedings by or on behalf of Puma, the Settling  
 14 Parties agree that all dates and deadlines in the Actions, if any, or any dates and  
 15 deadlines associated with the appeal of the Actions, if any, will be extended for such  
 16 periods of time as are necessary to obtain necessary orders, consents, releases, and  
 17 approvals from the bankruptcy court to carry out the terms and conditions of the  
 18 Settlement.

19       **8. Miscellaneous Provisions**

20       8.1 The Settling Parties: (a) acknowledge that it is their intent to consummate  
 21 this Stipulation; and (b) agree to act in good faith and cooperate to take all reasonable  
 22 and necessary steps to expeditiously implement the terms and conditions of this  
 23 Stipulation.

24       8.2 In the event that any part of the Settlement is found to be unlawful, void,  
 25 unconscionable, or against public policy by a court of competent jurisdiction, the  
 26 remaining terms and conditions of the Settlement shall remain intact.

1       8.3 The Settling Parties intend this Settlement to be a final and complete  
2 resolution of all disputes between them with respect to the Federal Actions and the  
3 State Actions. The Settlement comprises claims that are contested and shall not be  
4 deemed an admission by any Settling Party as to the merits of any claim, allegation, or  
5 defense. The Settling Parties and their respective counsel agree that at all times  
6 during the course of the litigation, each has complied with the requirements of the  
7 applicable laws and rules of the Court, including, without limitation, Rule 11 of the  
8 Federal Rules of Civil Procedure, and section 128.7 of the California Code of Civil  
9 Procedure.

10      8.4 Each of the Individual Defendants expressly denies and continues to deny  
11 all allegations of wrongdoing or liability against himself or herself arising out of any  
12 conduct, statements, acts, or omissions alleged, or which could have been alleged, in  
13 the Actions. The existence of the provisions contained in this Stipulation shall not be  
14 deemed to prejudice in any way the respective positions of the Settling Parties with  
15 respect to the Actions, shall not be deemed a presumption, a concession, or admission  
16 by any of the Settling Parties of any fault, liability, or wrongdoing as to any facts,  
17 claims, or defenses that have been or might have been alleged or asserted in the  
18 Actions or with respect to any of the claims settled in the Actions, or any other action  
19 or proceeding, and shall not be interpreted, construed, deemed, invoked, offered, or  
20 received in evidence or otherwise used by any person in the Actions, or in any other  
21 action or proceeding, except for any litigation or judicial proceeding arising out of or  
22 relating to this Stipulation or the Settlement whether civil, criminal, or administrative,  
23 for any purpose other than as provided expressly herein.

24      8.5 This Stipulation may be modified or amended only by a writing signed  
25 by the signatories hereto.

26      8.6 This Stipulation shall be deemed drafted equally by all the Settling  
27 Parties.

1       8.7 No representations, warranties, or inducements have been made to any of  
2 the Parties concerning this Stipulation or its exhibits other than the representations,  
3 warranties, and covenants contained and memorialized in such documents.

4       8.8 Each counsel or other Person executing this Stipulation or its exhibits on  
5 behalf of any of the Settling Parties hereby warrants that such Person has the full  
6 authority to do so.

7       8.9 The exhibits to this Stipulation are material and integral parts hereof and  
8 are fully incorporated herein by this reference.

9       8.10 This Stipulation and the exhibits attached hereto constitute the entire  
10 agreement among the Settling Parties with respect to the subject matter hereof and  
11 supersede all prior and contemporaneous oral and written agreements and discussions,  
12 except as to any written agreement that includes a provision pertaining to allocation of  
13 attorneys' fees and expenses to Plaintiffs' Counsel.

14       8.11 In the event that there exists a conflict or inconsistency between the terms  
15 of this Stipulation and the terms of any exhibit hereto, the terms of this Stipulation  
16 shall prevail.

17       8.12 This Stipulation may be executed in one or more counterparts, including  
18 by signature transmitted by facsimile or e-mailed PDF files. Each counterpart, when  
19 so executed, shall be deemed to be an original, and all such counterparts together shall  
20 constitute the same instrument.

21       8.13 This Stipulation shall be considered to have been negotiated, executed  
22 and delivered, and to be wholly performed, in the State of California, and the rights  
23 and obligations of the parties to this Stipulation shall be construed and enforced in  
24 accordance with, and governed by, the internal, substantive laws of the State of  
25 California without giving effect to that State's choice of law principles.

26       8.14 The Court shall retain jurisdiction with respect to implementation and  
27 enforcement of the terms of this Stipulation, and the Settling Parties and their counsel

1 submit to the jurisdiction of the Court solely for purposes of implementing and  
2 enforcing the Settlement embodied in this Stipulation.

3 IN WITNESS WHEREOF, the Settling Parties have caused this Stipulation to  
4 be executed by their duly authorized attorneys.

5 Dated: September 21, 2018

ROBBINS ARROYO LLP  
BRIAN J. ROBBINS  
KEVIN A. SEELY  
ASHLEY R. RIFKIN

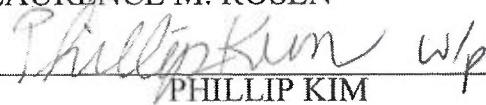
8   
9 ASHLEY R. RIFKIN

10  
11 600 B Street, Suite 1900  
12 San Diego, CA 92101  
13 Telephone: (619) 525-3990  
14 Facsimile: (619) 525-3991  
brobbins@robbinsarroyo.com  
kseely@robbinsarroyo.com  
arifkin@robbinsarroyo.com

15 *Counsel for Plaintiff Arnaud van der*  
16 *Gracht de Rommerswael*

1 Dated: September 21, 2018

THE ROSEN LAW FIRM, P.A.  
PHILLIP KIM  
LAURENCE M. ROSEN

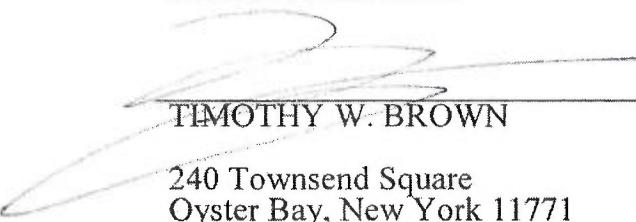
  
Phillip Kim w/p

4  
5 355 South Grand Avenue, Suite 2450  
6 Los Angeles, CA 90071  
7 Telephone: (213) 785-2610  
8 Facsimile: (213) 226-4684  
9 Email: pkim@rosenlegal.com  
Email: lrosen@rosenlegal.com

10  
11 *Lead Counsel for Plaintiffs Xie and*  
12 *McKenney and Counsel for Plaintiff*  
13 *Duran*

14 Dated: September 21, 2018

15 THE BROWN LAW FIRM, P.C.  
16 TIMOTHY W. BROWN  
17 ALEX P. MCBRIDE

  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
TIMOTHY W. BROWN

29 240 Townsend Square  
30 Oyster Bay, New York 11771  
31 Telephone: (516) 922-5427  
32 Facsimile: (516) 344-6204  
33 Email: tbrown@thebrownlawfirm.net  
Email: amcbride@thebrownlawfirm.net

34 *Counsel for Plaintiffs McKenney and*  
35 *Duran*

36 Dated: September 28, 2018

37 COOLEY LLP  
38 KOJI F. FUKUMURA

  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
5510  
5511  
5512  
5513  
5514  
5515  
5516  
5517  
5518  
5519  
5520  
5521  
5522  
5523  
5524  
5525  
5526  
5527  
5528  
5529  
5530  
5531  
5532  
5533  
5534  
5535  
5536  
5537  
5538  
5539  
55310  
55311  
55312  
55313  
55314  
55315  
55316  
55317  
55318  
55319  
55320  
55321  
55322  
55323  
55324  
55325  
55326  
55327  
55328  
55329  
55330  
55331  
55332  
55333  
55334  
55335  
55336  
55337  
55338  
55339  
55340  
55341  
55342  
55343  
55344  
55345  
55346  
55347  
55348  
55349  
55350  
55351  
55352  
55353  
55354  
55355  
55356  
55357  
55358  
55359  
55360  
55361  
55362  
55363  
55364  
55365  
55366  
55367  
55368  
55369  
55370  
55371  
55372  
55373  
55374  
55375  
55376  
55377  
55378  
55379  
55380  
55381  
55382  
55383  
55384  
55385  
55386  
55387  
55388  
55389  
55390  
55391  
55392  
55393  
55394  
55395  
55396  
55397  
55398  
55399  
553100  
553101  
553102  
553103  
553104  
553105  
553106  
553107  
553108  
553109  
553110  
553111  
553112  
553113  
553114  
553115  
553116  
553117  
553118  
553119  
553120  
553121  
553122  
553123  
553124  
553125  
553126  
553127  
553128  
553129  
553130  
553131  
553132  
553133  
553134  
553135  
553136  
553137  
553138  
553139  
553140  
553141  
553142  
553143  
553144  
553145  
553146  
553147  
553148  
553149  
553150  
553151  
553152  
553153  
553154  
553155  
553156  
553157  
553158  
553159  
553160  
553161  
553162  
553163  
553164  
553165  
553166  
553167  
553168  
553169  
553170  
553171  
553172  
553173  
553174  
553175  
553176  
553177  
553178  
553179  
553180  
553181  
553182  
553183  
553184  
553185  
553186  
553187  
553188  
553189  
553190  
553191  
553192  
553193  
553194  
553195  
553196  
553197  
553198  
553199  
553200  
553201  
553202  
553203  
553204  
553205  
553206  
553207  
553208  
553209  
553210  
553211  
553212  
553213  
553214  
553215  
553216  
553217  
553218  
553219  
553220  
553221  
553222  
553223  
553224  
553225  
553226  
553227  
553228  
553229  
553230  
553231  
553232  
553233  
553234  
553235  
553236  
553237  
553238  
553239  
553240  
553241  
553242  
553243  
553244  
553245  
553246  
553247  
553248  
553249  
553250  
553251  
553252  
553253  
553254  
553255  
553256  
553257  
553258  
553259  
553260  
553261  
553262  
553263  
553264  
553265  
553266  
553267  
553268  
553269  
553270  
553271  
553272  
553273  
553274  
553275  
553276  
553277  
553278  
553279  
553280  
553281  
553282  
553283  
553284  
553285  
553286  
553287  
553288  
553289  
553290  
553291  
553292  
553293  
553294  
553295  
553296  
553297  
553298  
553299  
553300  
553301  
553302  
553303  
553304  
553305  
553306  
553307  
553308  
553309  
553310  
553311  
553312  
553313  
553314  
553315  
553316  
553317  
553318  
553319  
553320  
553321  
553322  
553323  
553324  
553325  
553326  
553327  
553328  
553329  
553330  
553331  
553332  
553333  
553334  
553335  
553336  
553337  
553338  
553339  
553340  
553341  
553342  
553343  
553344  
553345  
553346  
553347  
553348  
553349  
553350  
553351  
553352  
553353  
553354  
553355  
553356  
553357  
553358  
553359  
553360  
553361  
553362  
553363  
553364  
553365  
553366  
553367  
553368  
553369  
553370  
553371  
553372  
553373  
553374  
553375  
553376  
553377  
553378  
553379  
553380  
553381  
553382  
553383  
553384  
553385  
553386  
553387  
553388  
553389  
553390  
553391  
553392  
553393  
553394  
553395  
553396  
553397  
553398  
553399  
553400  
553401  
553402  
553403  
553404  
553405  
553406  
553407  
553408  
553409  
553410  
553411  
553412  
553413  
553414  
553415  
553416  
553417  
553418  
553419  
553420  
553421  
553422  
553423  
553424  
553425  
553426  
553427  
553428  
553429  
553430  
553431  
553432  
553433  
553434  
553435  
553436  
553437  
553438  
553439  
553440  
553441  
553442  
553443  
553444  
553445  
553446  
553447  
553448  
553449  
553450  
553451  
553452  
553453  
553454  
553455  
553456  
553457  
553458  
553459  
553460  
553461  
553462  
553463  
553464  
553465  
553466  
553467  
553468  
553469  
553470  
553471  
553472  
553473  
553474  
553475  
553476  
553477  
553478  
553479  
553480  
553481  
553482  
553483  
553484  
553485  
553486  
553487  
553488  
553489  
553490  
553491  
553492  
553493  
553494  
553495  
553496  
553497  
553498  
553499  
553500  
553501  
553502  
553503  
553504  
553505  
553506  
553507  
553508  
553509  
553510  
553511  
553512  
553513  
553514  
553515  
553516  
553517  
553518  
553519  
553520  
553521  
553522  
553523  
553524  
553525  
553526  
553527  
553528  
553529  
553530  
553531  
553532  
553533  
553534  
553535  
553536  
553537  
553538  
553539  
553540  
553541  
553542  
553543  
553544  
553545  
553546  
553547  
553548  
553549  
553550  
553551  
553552  
553553  
553554  
553555  
553556  
553557  
553558  
553559  
553560  
553561  
553562  
553563  
553564  
553565  
553566  
553567  
553568  
553569  
553570  
553571  
553572  
553573  
553574  
553575  
553576  
553577  
553578  
553579  
553580  
553581  
553582  
553583  
553584  
553585  
553586  
553587  
553588  
553589  
553590  
553591  
553592  
553593  
553594  
553595  
553596  
553597  
553598  
553599  
553600  
553601  
553602  
553603  
553604  
553605  
553606  
553607  
553608  
553609  
553610  
553611  
553612  
553613  
553614  
553615  
553616  
553617  
553618  
553619  
553620  
553621  
553622  
553623  
553624  
553625  
553626  
553627  
553628  
553629  
553630  
553631  
553632  
553633  
553634  
553635  
553636  
553637  
553638  
553639  
553640  
553641  
553642  
553643  
553644  
553645  
553646  
553647  
553648  
553649  
553650  
553651  
553652  
553653  
553654  
553655  
553656  
553657  
553658  
553659  
553660  
553661  
553662  
553663  
553664  
553665  
553666  
553667  
553668  
553669  
553670  
553671  
553672  
553673  
553674  
553675  
553676  
553677  
553678  
553679  
553680  
553681  
553682  
553683  
553684  
553685  
553686  
553687  
553688  
553689  
553690  
553691  
553692  
553693  
553694  
553695  
553696  
553697  
553698  
553699  
553700  
553701  
553702  
553703  
553704  
553705  
553706  
553707  
553708  
553709  
553710  
553711  
553712  
553713  
553714  
553715  
553716  
553717  
553718  
553719  
553720  
553721  
553722  
553723  
553724  
553725  
553726  
553727  
553728  
553729  
553730  
553731  
553732  
553733  
553734  
553735  
553736  
553737  
553738  
553739  
5537340  
5537341  
5537342  
5537343  
5537344  
5537345  
5537346  
5537347  
5537348  
5537349  
5537350  
5537351  
5537352  
5537353  
5537354  
5537355  
5537356  
5537357  
5537358  
5537359  
5537360  
5537361  
5537362  
5537363  
5537364  
5537365  
5537366  
5537367  
5537368  
5537369  
5537370  
5537371  
5537372  
5537373  
5537374  
5537375  
5537376  
5537377  
5537378  
5537379  
5537380  
5537381  
5537382  
5537383  
5537384  
5537385  
5537386  
5537387  
5537388  
5537389  
5537390  
5537391  
5537392  
5537393  
5537394  
5537395  
5537396  
5537397  
5537398  
5537399  
5537400  
5537401  
5537402  
5537403  
5537404  
5537405  
5537406  
5537407  
5537408  
5537409  
55374010  
55374011  
55374012  
55374013  
55374014  
55374015  
55374016  
55374017  
55374018  
55374019  
55374020  
55374021  
55374022  
55374023  
55374024  
55374025  
55374026  
55374027  
55374028  
55374029  
55374030  
55374031  
55374032  
55374033  
55374034  
55374035  
55374036  
55374037  
55374038  
55374039  
55374040  
55374041  
55374042  
55374043  
55374044  
55374045  
55374046  
55374047  
55374048  
55374049  
55374050  
55374051  
55374052  
55374053  
55374054  
55374055  
55374056  
55374057  
55374058  
55374059  
55374060  
55374061  
55374062  
55374063  
55374064  
55374065  
55374066  
55374067  
55374068  
55374069  
55374070  
55374071  
55374072  
55374073  
55374074  
55374075  
55374076  
55374077  
55374078  
55374079  
55374080  
55374081  
55374082  
55374083  
55374084  
55374085  
55374086  
55374087  
55374088  
55374089  
55374090  
55374091  
55374092  
55374093  
55374094  
55374095  
55374096  
55374097  
55374098  
55374099  
553740100  
553740101  
553740102  
553740103  
553740104  
553740105  
553740106  
553740107  
553740108  
553740109  
553740110  
553740111  
553740112  
553740113  
553740114  
553740115  
553740116  
553740117  
553740118  
553740119  
553740120  
553740121  
553740122  
553740123  
553740124  
553740125  
553740126  
553740127  
553740128  
553740129  
553740130  
55374

1 Michele D. Johnson  
2 LATHAM & WATKINS LLP  
3 650 Town Center Drive, 20th Floor  
4 Costa Mesa, CA 92626  
5 Telephone: (714) 755-1235  
6 Facsimile: (714) 755-8290  
7 michele.johnson@lw.com  
8

9 Colleen C. Smith (231216)  
10 LATHAM & WATKINS LLP  
11 12670 High Bluff Drive  
12 San Diego, CA 92130  
13 Telephone: (858) 523-5400  
14 Facsimile: (858) 523-5450  
15 colleen.smith@lw.com  
16

17 *Counsel for defendants Alan H.  
18 Auerbach, Charles R. Eyler, Jay M.  
19 Moyes, Troy E. Wilson, Adrian M.  
20 Senderowicz, Frank E. Zavrl, Thomas R.  
21 Malley, and nominal defendant Puma  
22 Biotechnology, Inc.*

23 1284371  
24  
25  
26  
27  
28

# Exhibit A

## I. PROPOSED CORPORATE GOVERNANCE ENHANCEMENTS

The corporate governance reforms discussed below are critical for improving the functioning of the Company and conveying to investors that they can invest in Puma with confidence. Among other things, we propose that the Board adopt resolutions and amend appropriate committee charters to ensure adherence to at least a significant portion of the following corporate governance reforms, to be maintained for a period of not less than five years:

### A. Appointment of One New, Independent Director

1. Size of the Board: The Board is currently comprised of six directors. The Board shall add an additional Independent Director (as defined below), bringing the Board to seven members. The Corporate Governance Guidelines, which currently require the Board to maintain five members, shall be amended to reflect that the Board shall maintain seven members.
2. Procedure for Identifying New Independent Director: Candidates for the Board shall be identified pursuant to the following procedures which are designed to ensure stockholder participation in the identification of qualified, experienced, independent, and effective directors:
  - (a) The Nominating and Governance Committee shall identify an objective set of criteria.
  - (b) Large independent stockholders holding 5.0% or more of Puma common stock who are not affiliated with a defendant (“Large Stockholders”) will be asked to submit recommendations.
  - (c) The Nominating and Governance Committee shall review the individuals recommended by the Company’s Large Stockholders and recommend candidates the Nominating and Governance Committee considers qualified to serve as a board member.
  - (d) In the event that the Nominating and Governance Committee does not select any of the candidates proposed, the Large Stockholders shall be advised of this determination, including the reasons for it, and the Large Stockholders shall be given one additional opportunity to submit qualified candidates. If, after this second opportunity, vacancies remain, the Large Stockholders shall be advised of this determination, including the reasons for it, and the Nominating and Governance Committee shall identify suitable candidates.
3. Stockholder Input Regarding Future Director Nominees: Puma shall amend its Corporate Governance Guidelines to allow any Large Stockholders to recommend director nominees to the Board and to require the Nominating and Governance Committee to consider all such recommendations in connection with the nomination of new directors.

The Nominating and Governance Committee's deliberations and decision-making with respect to the nominees shall be reflected in the minutes of the Committee's proceedings.

## B. Board of Directors — Governance Changes

1. Board Independence: Currently, Independent Directors must constitute a majority of the Board. Going forward, at least two-thirds of the members of the Board shall be “independent directors,” as defined in the NASDAQ listing standards, Sarbanes-Oxley Act, and described in Section I.B.2 below. In the event the Board is not in compliance with this requirement, it will take steps to return to compliance within ninety days. Each Independent Director shall confirm his or her status as an independent director annually and shall promptly inform the Board or Nominating and Governance Committee of any change in his or her status that would disqualify him or her as an Independent Director.
2. Director Independence Standard Improvements:
  - (a) In addition to Nasdaq listing standards and Sarbanes-Oxley Act requirements, to be deemed “independent” for purposes of the director independence requirements, a director shall not:
    - (i) Have been employed by the Company or its subsidiaries for more than one year within the last five calendar years;
    - (ii) Have any personal service contract(s) with the Company or any member of the Company’s senior management;
    - (iii) Have any interest in any non-Company related investment that overlaps with an investment by the Company and/or its senior management (including Mr. Auerbach);
    - (iv) During the current calendar year or any of the three immediately preceding calendar years, have any business relationship with the Company for which the Company has been required to make disclosure under Item 404 Regulation S-K, other than for service as a director or for which relationship no more than de minimis remuneration (as defined below) was received in any one such year; provided, however, that the need to disclose any relationship that existed prior to a director joining the Board shall not in and of itself render the director non-independent;
    - (v) Have any of the relationships described in subsections (i)-(iv) above with any “affiliate” of the Company as

determined pursuant to applicable U.S. Securities and Exchange Commission guidance; nor

- (vi) Be a member of the immediate family of any person described in subsections (i)-(iv) above.
- (b) A director is deemed to have received remuneration (other than remuneration as a director, including remuneration provided to a nonexecutive Board or committee Chairman), directly or indirectly, if remuneration, other than de minimis remuneration, was paid by the Company, its subsidiaries, or affiliates, to any entity in which the director has a beneficial ownership interest of five percent or more, or to an entity by which the director is employed other than as a director. Remuneration is deemed de minimis remuneration if such remuneration is \$120,000 or less in any calendar year, or, if such remuneration is paid to an entity, if it: (i) is less than or equal to \$1 million in any calendar year, or one percent (1%) of the gross revenues of the entity in any calendar year, whichever amount is less; and (ii) did not directly result in a material increase in the compensation received by the director from that entity.

3. Director Continuing Education: The Corporate Governance Guidelines reflect that the Company must maintain a continuing education program for all directors, but no specifics are provided. The Company shall adopt a formal continuing education program that requires, at a minimum, the following:

- (a) Each director shall at least once every three years attend one multi-day training course provided by a nationally recognized corporate director education provider. Any new directors shall attend such a training course within 6 months of joining the Board.
- (b) The Company's CEO shall annually select a topic they believe to be of particular importance to the Company or the Board. The CEO will present on this topic, or arrange for a person knowledgeable regarding the subject to present on this topic, in front of the entire Board, whether at a regularly scheduled Board meeting or an additionally scheduled meeting. Such topics may include, but are not limited to, coverage of compliance with Generally Accepted Accounting Principles ("GAAP"), the Sarbanes Oxley Act ("SOX"), regulatory requirements for New Drug Application ("NDA") submissions, corporate governance, assessment of risk, compliance auditing, and reporting requirements for publicly traded companies.

4. Annual Meetings: Each member of the Board is strongly encouraged to attend each annual stockholder meeting in person, and, during the annual stockholder meeting, stockholders shall have the right to ask questions orally or in writing, and to receive answers and discussion where appropriate from the CEO and members of the Board.
5. Limited Director Engagements Outside of Puma: Puma shall require directors to seek approval from the Board in advance of accepting an invitation to serve on the board of another public company. Puma shall amend Section II of the Corporate Governance Guidelines (the paragraph titled “Membership on Other Boards”) to include: “The Chief Executive Officer of Puma shall not serve on the board of directors of more than three public companies, including Puma.”
6. Director Stock Ownership Guidelines: Although the Corporate Governance Guidelines encourage directors to have a financial stake in the Company, they do not currently require a minimum number of share ownership. The Corporate Governance Guidelines shall be amended to require each nonemployee director to attain beneficial ownership of not less than 10,000 shares of the Company’s common stock within three years and to retain such minimum beneficial stock ownership so long as he or she continues to serve as a director. Unless otherwise approved by a majority of the board, nonemployee directors shall be required to refrain from selling shares (other than for the purpose of paying federal or state income taxes related to the acquisition of such shares) until such minimum beneficial stock ownership is attained.
7. Disclosure of Committee Membership: The Company shall be required to disclose current committee membership on its website.

### **C. Nominating and Corporate Governance Committee**

Puma shall adopt a resolution to amend the Nominating and Corporate Governance Committee Charter. The Nominating and Corporate Governance Committee Charter shall require the following, at a minimum:

1. The Nominating and Corporate Governance Committee shall consist of at least three members, as opposed to the currently required minimum of two members;
2. The Nominating and Corporate Governance Committee shall meet with each prospective new Board member prior to his or her nomination to the Board and then recommend whether such individual shall be nominated for membership to the Board. In determining whether to recommend nomination of a prospective Board member, the Nominating and Corporate Governance Committee shall complete a background check and consider, among other things, interlocking directorships and substantial business, civic, and/or social

relationships with other members of the Board that could impair the prospective Board member's ability to act independently from the other Board members.

3. Puma shall post the amended Nominating and Corporate Governance Committee Charter on its website.

#### **D. Improvements to the Compensation Committee**

Puma shall adopt a resolution to amend the Compensation Committee Charter. The Compensation Committee Charter shall require the following: at a minimum:

1. The Compensation Committee shall consist of at least three members, as opposed to the currently required minimum of two members;
2. In determining, setting, or approving annual short-term compensation arrangements, the Compensation Committee shall take into account the particular executive's performance as it relates to both legal compliance and compliance with the Company's internal policies and procedures. This shall not affect payments or benefits that are required to be paid pursuant to the Company's plans, policies, or agreements;
3. In determining, setting, or approving termination benefits and/or separation pay to executive officers, the Compensation Committee shall take into consideration the circumstances surrounding the particular executive officer's departure and the executive's performance as it relates to both legal compliance and compliance with the Company's internal policies and procedures. This shall not affect payments or benefits that are required to be paid pursuant to the Company's plans, policies, or agreements; and
4. Puma shall post the amended Compensation Committee Charter on its website.

#### **E. Audit Committee**

1. Audit Committee Executive Sessions: The Audit Committee shall meet in executive session for at least a portion of each regular meeting of the Audit Committee.
2. Puma shall adopt a resolution to amend the Audit Committee Charter. The Audit Committee Charter shall require the following, at a minimum:
  - (a) Puma shall agree that the CFO shall certify to the Audit Committee on an annual basis that he or she has performed, or the Company's outside auditor has performed, a risk assessment pertaining to financial reporting risks and promptly addressed potentially unlawful activities;

- (b) In conducting its duties, the Audit Committee shall inform the full Board on an ongoing basis of any material suspected errors in the work of the independent audit, or in the Company's maintenance of accounting records, including records for intercompany transactions among its subsidiaries. The Audit Committee shall also inform the full Board on an ongoing basis if, in conducting its duties, it finds that the Company has insufficient liquidity to operate its business successfully;
- (c) The Audit Committee shall receive annually a report listing all trades in Puma securities engaged in by Section 16 officers; and
- (d) Puma shall post the amended Audit Committee charter on its website.

#### **F. Committee Chairs**

Puma shall amend Section VII of its Corporate Governance Guidelines (the paragraph titled "Selection of Committee Chairs") to expressly prohibit any individual member of the Board from being the chairman of more than one committee of the Board at a time.

#### **G. Management Assessment of Internal Controls**

Management shall work with the Audit Committee and, to the extent relevant, the R&D Committee, to assess the adequacy of the Company's internal controls over financial reporting and disclosure controls and procedures, and shall report in the Company's Annual Report on Form 10-K any identified material weaknesses with respect to, among other things, the Company's internal communication policies and procedures regarding the public disclosure of material information concerning the Company's product pipeline, research and development efforts, results of pre-clinical studies and clinical trials, status of NDAs, and communications with the FDA.

#### **H. Creation of Research and Development Committee**

Puma shall create a Board-level Research and Development Committee for the purpose of, among other things, overseeing the Company's product pipeline and research and development efforts, including oversight and evaluation of the Company's clinical trials and clinical development risk. The R&D Committee shall operate pursuant to a Charter that shall be made available on the Corporate Governance section of the Company's website and include at least the following provisions:

1. Membership:
  - (a) The R&D Committee shall be composed of at least three directors, each of whom is an Independent Director (as defined in Section I.B.2 above).

- (b) A majority of R&D Committee members must have sufficient scientific and/or medical expertise to review and evaluate the progress of the Company's product pipeline.
- (c) At least one member of the R&D Committee must also be a member of the Audit Committee.
- (d) The members of the R&D Committee and its chairman shall be selected annually by the Board. Unless a Chair is appointed by the full Board, the members of the R&D Committee may designate a Chair by a majority vote of the full R&D Committee membership; provided, however, that the Chair shall not be someone who received 25% or more withheld votes in the last election.

2. General Responsibilities:

- (a) The R&D Committee shall meet with the Chief Medical and Scientific Officer at least quarterly to review the progress of the Company's product pipeline, including a review and analysis of the progress and results of the Company's pre-clinical studies and clinical trials.
- (b) The R&D Committee shall assess each product's progress against its targets, taking into account the results of the Company's pre-clinical studies and clinical trials.
- (c) The R&D Committee shall be timely provided with copies of all communications with the FDA.
- (d) The R&D Committee shall review and pre-approve (prior to public release) the Company's material public disclosures related to its product pipeline, research and development efforts, results of pre-clinical studies and clinical trials, status of NDAs, and communications with the FDA.

3. Meetings: The R&D Committee shall meet at least quarterly. The R&D Committee shall maintain minutes of its meetings, which will be filed with the minutes of the meetings of the Board.

4. Reporting: The R&D Committee shall make a presentation to the entire Board at least quarterly, together with written documentation, summarizing all significant findings concerning the progress of the Company's product pipeline, including any material information that impacts the Company's public disclosures regarding those products, the results of related pre-clinical studies and clinical trials, the status of the Company's NDAs, and communications with the FDA.

5. Independent Advisors: The R&D Committee is authorized, without further action by the Board, to engage external consultants and advisors as deemed appropriate by the R&D Committee in its sole discretion to perform its duties and responsibilities.
6. Access to Information: The R&D Committee shall be authorized to request members of senior management, outside counsel and other advisors to participate in Committee meetings. The R&D Committee shall have access to books, records, facilities and personnel of the Company with respect to any matters within the scope of its responsibilities, as it shall deem appropriate.
7. Self-Evaluation: The R&D Committee shall: (a) evaluate its own performance annually and deliver a report to the Board setting forth the results of its evaluation; and (b) review and reassess the adequacy of its Charter annually and recommend any proposed changes to the Board for its approval.

#### **I. Stockholders' Ability to Call Special Meetings of the Board**

The Company shall amend its Bylaws to reflect that Special Meetings may be called by one or more stockholders holding shares in the aggregate entitled to cast more than 25% of the votes that that meeting.

#### **J. Scientific Advisory Board**

The Company shall disclose the members of its Scientific Advisory Committee on its website.

#### **K. The Related Party Transactions Policy**

Puma currently has a written Related Party Transactions Policy and Procedures (the “RPT Policy”). Puma shall amend its RPT Policy to provide for the following, in addition to the provisions already in the RPT Policy:

1. All Board members shall submit to the Corporate Secretary an up-to-date list of companies in which they are a director, an officer, and/or of which they own a controlling interest, and to promptly update the list when any changes occur;
2. The Corporate Secretary will implement procedures to ensure that any material transaction that Puma is contemplating that would confer a monetary or other benefit to a party that is related to Puma, especially its parent companies and subsidiaries, will promptly be disclosed to the Board. Materiality of such transactions and whether such transactions are with a party that is related to Puma shall be determined by the factors set forth under Item 404(a) of Regulation S-K. The procedures shall include written disclosure to the Board of the details of any such transaction

including the nature of the relationship between the proposed counterparty and the party related to Puma, financial terms and other pertinent information; and

3. The Board's independent directors must approve or ratify any related-party transactions and Puma must make timely disclosures on an annual basis of all such transactions that are determined to be material. The Board's independent directors will consider the business purpose for any proposed related-party transaction, the fairness of the transaction to the Company, and whether the proposed transaction impairs the independence of any outside director or presents an improper conflict of interest for any Puma officer or director.

## **L. Whistleblower Program**

Although the Company has a whistleblower hotline, the following reforms will help ensure complaints are escalated to management and the Board, as appropriate:

1. The provisions of the Code of Ethics shall make clear that the whistleblowing provisions are designed to report any potential or suspected violation of any federal or state law (in any form, including accounting violations, insider trading, etc.), and not simply to report violations of internal Puma policies.
2. Log of Whistleblower Complaints: A log of whistleblower complaints, as well as the results of all investigations of complaints, shall be memorialized in writing and maintained for a period of not less than ten years.
3. Review of Whistleblower Log: The Company shall require its external auditor to review the log and investigation results in connection with each annual audit.
4. Board Involvement: At each regularly- scheduled Board meeting, the Board shall be provided with a summary of the types of complaints received, as well as any material information resulting from any internal investigation into such complaints.

# Exhibit B

1  
2  
3  
4  
5  
6  
7  
8 ARNAUD VAN DER GRACHT DE  
9 ROMMERSWAEL, Derivatively on  
10 Behalf of PUMA BIOTECHNOLOGY,  
11 INC.,

12 Plaintiff,

13 v.  
14 ALAN H. AUERBACH, CHARLES R.  
15 EYLER, JAY M. MOYES, TROY E.  
16 WILSON, ADRIAN M.  
17 SENDEROWICZ, FRANK E. ZAVRL,  
18 and THOMAS R. MALLEY,

19 Defendants,

20 -and-  
21 PUMA BIOTECHNOLOGY, INC., a  
22 Delaware corporation,  
23 Nominal Defendant.

24 Case No. 8:18-cv-00236-AG-JCG  
25  
26  
27  
28

[PROPOSED] PRELIMINARY  
APPROVAL ORDER

**EXHIBIT B**

1        This matter came before the Court for a hearing on \_\_\_\_\_, 2018.  
2 Plaintiff has made an unopposed motion, pursuant to Rule 23.1 of the Federal Rules of  
3 Civil Procedure, for an order: (i) preliminarily approving the proposed settlement  
4 ("Settlement") of shareholder derivative claims, in accordance with the Stipulation of  
5 Settlement dated September 28, 2018 (the "Stipulation"); and (ii) approving the form  
6 and manner of the Notice of the Settlement.<sup>1</sup>

7        WHEREAS, the Stipulation sets forth the terms and conditions for the  
8 Settlement, including, but not limited to a proposed Settlement and dismissal of the  
9 following shareholder derivative actions with prejudice as to the Released Persons:  
10 (i) the above-captioned action, titled *van der Gracht de Rommerswael v. Auerbach*,  
11 Case No. 8:18-cv-00236-AG-JCG (C.D. Cal.); (ii) *Xie v. Auerbach*, Case No.  
12 BC616617 (Cal. Super. Ct.-L.A. Cty.); (iii) *McKenney v. Auerbach*, Case No.  
13 BC617059 (Cal. Super. Ct.-L.A. Cty.); and (iv) *Duran v. Auerbach*, Case No. 2:18-cv-  
14 04802-AG-DFM (C.D. Cal.) (collectively, the "Actions");

15       WHEREAS, the Court having: (i) read and considered Plaintiff's Unopposed  
16 Motion for Preliminary Approval of Shareholder Derivative Settlement together with  
17 the accompanying Memorandum of Points and Authorities; (ii) read and considered  
18 the Stipulation, as well as all the exhibits attached thereto; and (iii) heard and  
19 considered arguments by counsel for the Settling Parties in favor of preliminary  
20 approval of the Settlement;

21       WHEREAS, the Court finds, upon a preliminary evaluation, that the proposed  
22 Settlement falls within the range of possible approval criteria, as it provides a  
23 beneficial result for Puma and appears to be the product of serious, informed, non-  
24 collusive negotiations overseen by an experienced mediator; and

25  
26       <sup>1</sup> Except as otherwise expressly provided below or as the context otherwise requires,  
27 all capitalized terms contained herein shall have the same meanings and/or definitions  
as set forth in the Stipulation.

1        WHEREAS, the Court also finds, upon a preliminary evaluation, that Puma  
2 shareholders should be apprised of the Settlement through the proposed form of  
3 notice, allowed to file objections, if any, thereto, and appear at the Settlement Hearing.

4        NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND  
5 DECREED AS FOLLOWS:

6        1. This Court, for purposes of this Preliminary Approval Order, adopts the  
7 definitions set forth in the Stipulation.

8        2. This Court preliminarily approves, subject to further consideration at the  
9 Settlement Hearing described below, the Settlement as set forth in the Stipulation as  
10 being fair, reasonable, and adequate.

11        3. A hearing shall be held on \_\_\_\_\_, 2018 at \_\_\_\_\_.m., before  
12 the Honorable Andrew J. Guilford, at the U.S. District Court for the Central District of  
13 California, Ronald Reagan Federal Building and United States Courthouse, Santa Ana  
14 Division, 411 West 4th Street, Court 10D, Los Angeles, California 92701 (the  
15 "Settlement Hearing"), at which the Court will determine: (i) whether the terms of the  
16 Stipulation should be approved as fair, reasonable, and adequate; (ii) whether the  
17 Notice fully satisfied the requirements of Rule 23.1 of the Federal Rule of Civil  
18 Procedure and the requirements of due process; (iii) whether all Released Claims  
19 against the Released Persons should be fully and finally released; (iv) whether the  
20 agreed-to Fee and Expense Amount should be approved; and (v) such other matters as  
21 the Court may deem appropriate.

22        4. The Court finds that the form, substance, and dissemination of  
23 information regarding the proposed Settlement in the manner set out in this  
24 Preliminary Approval Order constitutes the best notice practicable under the  
25 circumstances and complies fully with Rule 23.1 of the Federal Rules of Civil  
26 Procedure and due process.

1       5. Within ten (10) business days after the entry of this Preliminary Approval  
2 Order, Puma shall cause the Stipulation and Notice to be filed with the SEC along  
3 with an SEC Form 8-K or other appropriate filing, Puma shall publish the Summary  
4 Notice one time in the national edition of *Investor's Business Daily*, and Puma shall  
5 also publish the Stipulation and Notice on an internet page that Puma shall create for  
6 this purpose, which shall be accessible via a link on the "Investors" page of Puma's  
7 website, the address of which shall be contained in the Notice and Summary Notice.

8       6. All costs incurred in the filing and publication of the Notice and  
9 Summary Notice shall be paid by Puma, and Puma shall undertake all administrative  
10 responsibility for the filing and publication of the Notice and Summary Notice.

11       7. At least fourteen (14) calendar days prior to the Settlement Hearing,  
12 Defendants' Counsel shall file with the Court an appropriate affidavit or declaration  
13 with respect to filing, publishing, and posting the Notice and Summary Notice as  
14 provided for in paragraph 5 of this Preliminary Approval Order.

15       8. All Applicable Puma Shareholders shall be subject to and bound by the  
16 provisions of the Stipulation and the releases contained therein, and by all orders,  
17 determinations, and judgments in the van der Gracht de Rommerswael Action  
18 concerning the Settlement, whether favorable or unfavorable to Applicable Puma  
19 Shareholders.

20       9. Pending final determination of whether the Settlement should be  
21 approved, Plaintiffs and Applicable Puma Shareholders shall not commence or  
22 prosecute against any of the Released Persons any action or proceeding in any court or  
23 tribunal asserting any of the Released Claims.

24       10. Any shareholder of Puma common stock may appear and show cause, if  
25 he, she, or it has any reason why the Settlement embodied in the Stipulation should  
26 not be approved as fair, reasonable, and adequate, or why a judgment should or should  
27 not be entered hereon, or the Fee and Expense Amount or service awards should not

1 be awarded. However, no Puma shareholder shall be heard or entitled to contest the  
2 approval of the proposed Settlement, or, if approved, the Judgment to be entered  
3 hereon, unless that Puma shareholder has caused to be filed, and served on counsel as  
4 noted below, written objections stating all supporting bases and reasons for the  
5 objection, and setting forth proof of current ownership of Puma stock and ownership  
6 of Puma stock as of September 28, 2018 as well as documentary evidence of when  
7 such stock ownership was acquired.

8 11. At least fourteen (14) calendar days prior to the Settlement Hearing set  
9 for \_\_\_\_\_, 2018, any such person must file the written objection(s) and  
10 corresponding materials with the Clerk of the Court, U.S. District Court for the  
11 Central District of California, Ronald Reagan Federal Building and United States  
12 Courthouse, Santa Ana Division, 411 West 4th Street, Room 1053, Los Angeles,  
13 California 92701 and serve such materials by that date, to each of the following  
14 Settling Parties' counsel:

15 *Counsel for Plaintiffs:*

16 Ashley R. Rifkin  
17 ROBBINS ARROYO LLP  
600 B Street, Suite 1900  
18 San Diego, CA 92101

19 and

20 Phillip Kim  
21 THE ROSEN LAW FIRM, P.A.  
275 Madison Avenue, 34th Floor  
New York, NY 10016

22 *Counsel for Defendants:*

23 Ryan E. Blair  
COOLEY LLP  
4401 Eastgate Mall  
24 San Diego, CA 92121

25 12. Only shareholders who have filed with the Court and sent to the Settling  
Parties' counsel valid and timely written notices of objection will be entitled to be  
heard at the hearing unless the Court orders otherwise.

26 13. Any Person or entity who fails to appear or object in the manner provided  
herein shall be deemed to have waived such objection and shall forever be foreclosed

1 from making any objection to the fairness, reasonableness, or adequacy of the  
2 Settlement and to the Fee and Expense Amount and service awards, unless otherwise  
3 ordered by the Court, but shall be forever bound by the Judgment to be entered and  
4 the releases to be given as set forth in the Stipulation.

5 14. Plaintiffs shall file their motion for final approval of the Settlement at  
6 least twenty-one (21) calendar days prior to the Settlement Hearing. If there is any  
7 objection to the Settlement, Plaintiffs shall file a response to the objection(s) at least  
8 seven (7) calendar days prior to the Settlement Hearing.

9 15. All proceedings in the van der Gracht de Rommerswael Action are stayed  
10 until further order of the Court, except as may be necessary to implement the  
11 Settlement or comply with the terms of this Stipulation.

12 16. This Court may, for good cause, extend any of the deadlines set forth in  
13 this Preliminary Approval Order without further notice to Puma's shareholders.

14 17. Neither the Stipulation nor the Settlement, nor any act performed or  
15 document executed pursuant to or in furtherance of the Stipulation or the Settlement:  
16 (i) is or may be deemed to be or may be offered, attempted to be offered or used in  
17 any way by the Settling Parties or any other Person as a presumption, a concession or  
18 an admission of, or evidence of, any fault, wrongdoing or liability of the Settling  
19 Parties or Released Persons, or of the validity of any Released Claims; or (ii) is  
20 intended by the Settling Parties to be offered or received as evidence or used by any  
21 other person in any other actions or proceedings, whether civil, criminal, or  
22 administrative, other than to enforce the terms therein.

23 18. The Court reserves: (i) the right to approve the Settlement, with such  
24 modifications as may be agreed to by counsel for the Settling Parties consistent with  
25 such Settlement, without further notice to Puma shareholders; and (ii) the right to  
26 continue or adjourn the Settlement Hearing from time to time or by oral  
27

1 announcement at the hearing or at any adjournment thereof, without further notice to  
2 Puma shareholders.

3 **IT IS SO ORDERED.**

4  
5 DATED:

6  
7 HONORABLE ANDREW J. GUILFORD  
8 U.S. DISTRICT JUDGE  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1290294

# Exhibit C

Case 8:18-cv-00236-AG-JCG Document 17-1 Filed 09/28/18 Page 46 of 70 Page ID #:158

1 ROBBINS ARROYO LLP  
2 BRIAN J. ROBBINS (190264)  
3 brobbins@robbinsarroyo.com  
4 KEVIN A SEELY (199982)  
5 kseely@robbinsarroyo.com  
6 ASHLEY R. RIFKIN (246602)  
7 arifkin@robbinsarroyo.com  
8 600 B Street, Suite 1900  
9 San Diego, CA 92101  
10 Telephone: (619) 525-3990  
11 Facsimile: (619) 525-3991

12 *Counsel for Plaintiff Arnaud van der*  
13 *Gracht de Rommerswael*

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

12 ARNAUD VAN DER GRACHT DE  
13 ROMMERSWAEL, Derivatively on  
14 Behalf of PUMA BIOTECHNOLOGY,  
15 INC.,

16 Plaintiff,

17 v.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ALAN H. AUERBACH, CHARLES R.  
EYLER, JAY M. MOYES, TROY E.  
WILSON, ADRIAN M.  
SENDEROWICZ, FRANK E. ZAVRL,  
and THOMAS R. MALLEY,

Defendants,

-and-

PUMA BIOTECHNOLOGY, INC., a  
Delaware corporation,

Nominal Defendant.

Case No. 8:18-cv-00236-AG-JCG

NOTICE OF PENDENCY AND  
PROPOSED SETTLEMENT OF  
SHAREHOLDER DERIVATIVE  
ACTION

**EXHIBIT C**

1 TO: ALL OWNERS OF THE COMMON STOCK OF PUMA  
2 BIOTECHNOLOGY, INC. ("PUMA" OR THE "COMPANY")  
3 CURRENTLY AND AS OF SEPTEMBER 28, 2018 ("APPLICABLE  
4 PUMA SHAREHOLDERS"):

5 **THIS NOTICE RELATES TO THE PENDENCY AND PROPOSED  
6 SETTLEMENT OF SHAREHOLDER DERIVATIVE LITIGATION.  
7 PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY.  
8 IF YOU ARE A PUMA SHAREHOLDER, THIS NOTICE CONTAINS  
9 IMPORTANT INFORMATION ABOUT YOUR RIGHTS.**

10 **YOU ARE HEREBY NOTIFIED**, pursuant to an Order of the U.S. District  
11 Court for the Central District of California (the "Court"), that a proposed settlement  
12 has been reached by the parties to the following shareholder derivative actions brought  
13 on behalf and for the benefit of Puma: (i) *Xie v. Auerbach*, Case No. BC616617 (Cal.  
14 Super. Ct.-L.A. Cty.); (ii) *McKenney v. Auerbach*, Case No. BC617059 (Cal. Super.  
15 Ct.-L.A. Cty.) (together the "State Actions"); (iii) *van der Gracht de Rommerswael v.  
16 Auerbach*, Case No. 8:18-cv-00236-AG-JCG (C.D. Cal.); and (iv) *Duran v. Auerbach*,  
17 Case No. 2:18-cv-04802-AG-DFM (C.D. Cal.) ("Duran Action") (collectively, the  
18 "Actions").<sup>1</sup>

19 As explained below, A hearing will be held on \_\_\_\_\_, 2018 at \_\_\_\_\_  
20 .m., before the Honorable Andrew J. Guilford, at the U.S. District Court for the  
21 Central District of California, Ronald Reagan Federal Building and United States  
22 Courthouse, Santa Ana Division, 411 West 4th Street, Court 10D, Los Angeles,  
23 California 92701 (the "Settlement Hearing"), at which the Court will determine  
24 whether to approve the Settlement. You have an opportunity to be heard at this  
25 hearing.

26 The terms of the settlement are set forth in the Stipulation and summarized in  
27 this Notice. If approved by the Court, the Settlement will fully resolve the Actions,  
28 \_\_\_\_\_

<sup>1</sup> All capitalized terms herein have the same meanings as set forth Settling Parties' Stipulation of Settlement dated September 28, 2018 (the "Stipulation"), which is available for viewing on the website of Puma at [www.Puma.com](http://www.Puma.com).

1 including the dismissal of the Actions with prejudice. For a more detailed statement  
2 of the matters involved in the Actions, the Settlement, and the terms discussed in this  
3 Notice, the Stipulation may be inspected at the Clerk of Court's office, U.S. District  
4 Court for the Central District of California, Ronald Reagan Federal Building and  
5 United States Courthouse, Santa Ana Division, 411 West 4th Street, Room 1053, Los  
6 Angeles, California 92701. The Stipulation is also available for viewing on the  
7 website of Puma at [www.puma.com](http://www.puma.com). For a fee, all papers filed in the van  
8 der Gracht de Rommerwael Action are available at [www.pacer.gov](http://www.pacer.gov).

9 This Notice is not intended to be an expression of any opinion by the Court with  
10 respect to the merits of the claims made in the Actions, but is merely to advise you of the  
11 pendency and settlement of the Actions.

12 **THERE IS NO CLAIMS PROCEDURE.** This case was brought to protect the  
13 interests of Puma. The Settlement will result in changes to the Company's corporate  
14 governance, not in payment to individuals, and accordingly, there will be no claims  
15 procedure.

16 **I. THE ACTIONS**

17 The Actions are brought by Plaintiffs solely on behalf of and for the benefit of  
18 Puma and against the Individual Defendants. Puma is a biopharmaceutical company  
19 that has focused its efforts almost entirely on developing and marketing the drug,  
20 NERLYNX™ ("neratinib"), a drug designed to treat patients with human epidermal  
21 growth factor receptor 2-positive breast cancers. The derivative claims arise from the  
22 Individual Defendants' alleged breaches of fiduciary duties for making and/or  
23 approving allegedly false and misleading statements regarding neratinib's safety and  
24 efficacy (and corresponding likelihood to receive approval from the U.S. Food and  
25 Drug Administration ("FDA")).

26

27

28

## 1 II. PLAINTIFFS' CLAIMS AND THE BENEFITS OF SETTLEMENT

2 Plaintiffs believe that the Actions have substantial merit, and Plaintiffs' entry  
3 into the Stipulation and Settlement is not intended to be and shall not be construed as  
4 an admission or concession concerning the relative strength or merit of the claims  
5 alleged in the Actions. However, Plaintiffs and Plaintiffs' Counsel recognize and  
6 acknowledge the significant risk, expense, and length of continued proceedings  
7 necessary to prosecute the Actions against the Individual Defendants through trial and  
8 through possible appeals. Plaintiffs' Counsel also have taken into account the  
9 uncertain outcome and the risk of any litigation, especially in complex cases such as  
10 the Actions, as well as the difficulties and delays inherent in such litigation. Plaintiffs'  
11 Counsel are also mindful of the inherent problems of establishing standing in  
12 derivative litigation, and the possible defenses to the claims alleged in the Actions.

13 Plaintiffs' Counsel have conducted extensive investigation and analysis,  
14 including, *inter alia*: (i) reviewing Puma's press releases, public statements, U.S.  
15 Securities and Exchange Commission ("SEC") filings, and securities analysts' reports  
16 and advisories about the Company, its financial condition, and the status and results of  
17 Puma's research and development efforts relating to its drug, neratinib; (ii) reviewing  
18 related media reports about the Company; (iii) researching applicable law with respect  
19 to the claims alleged in the Actions and potential defenses thereto; (iv) researching  
20 and preparing correspondence related to plaintiff van der Gracht de Rommerswael's  
21 litigation demand; (v) preparing and filing derivative complaints; (vi) reviewing  
22 documents produced to plaintiffs in the State Actions pursuant to the stipulation to  
23 stay that was granted by the Superior Court; (vii) conducting damages analyses;  
24 (viii) reviewing and analyzing relevant documents in the Securities Action—including  
25 the motion to dismiss briefing and the Court's order denying the defendants' motion to  
26 dismiss—and evaluating the merits of, and the defendants' potential liability in  
27 connection with, the Securities Action; (ix) researching corporate governance best

1 practices; (x) researching and preparing correspondence related to the settlement  
2 demands; (xi) participating in a day-long mediation and several follow-up discussions;  
3 and (xii) negotiating this Settlement with Defendants. Based on Plaintiffs' Counsel's  
4 thorough review and analysis of the relevant facts, allegations, defenses, and  
5 controlling legal principles, Plaintiffs' Counsel believe that the Settlement set forth in  
6 the Stipulation is fair, reasonable, and adequate, and confers substantial benefits upon  
7 Puma. Based upon Plaintiffs' Counsel's evaluation, Plaintiffs have determined that the  
8 Settlement is in the best interests of Puma and have agreed to settle the Actions upon  
9 the terms and subject to the conditions set forth herein.

10 **III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

11 Defendants have denied and continue to deny each and all of the claims and  
12 contentions alleged by Plaintiffs in the Actions. The Individual Defendants have  
13 expressly denied and continue to deny all charges of wrongdoing or liability against  
14 them arising out of any of the conduct, statements, acts, or omissions alleged, or that  
15 could have been alleged in the Actions.

16 Nonetheless, Defendants have concluded that further litigation of the Actions  
17 would be protracted and expensive, and that it is desirable for the Actions to be fully  
18 and finally settled in the matter and upon the terms and conditions set forth in the  
19 Stipulation. Defendants have also taken into account the uncertainty and risks  
20 inherent in any litigation, especially in complex cases like the Actions. Defendants  
21 have, therefore, determined that it is desirable and beneficial that the actions be settled  
22 in the manner and upon the terms and conditions set forth in the Stipulation.

23 Neither the Stipulation, nor any of its terms or provisions, nor entry of the  
24 Judgment, nor any document or exhibit referred or attached to the Stipulation, nor any  
25 action taken to carry out the Stipulation, is, may be construed as, or may be used as  
26 evidence of the validity of any of the Released Claims or an admission by or against  
27  
28

1 the Individual Defendants of any fault, wrongdoing, or concession of liability  
2 whatsoever.

3 **IV. TERMS OF THE SETTLEMENT**

4 The terms and conditions of the proposed Settlement are set forth in the  
5 Stipulation, which has been filed with the Court and is available for viewing on  
6 Puma's website at [www.Puma.com](http://www.Puma.com). The following is only a summary of its  
7 terms.

8 Puma, acting through its independent, non-defendant directors, reviewed the  
9 allegations and the settlement terms, and in a good faith exercise of business judgment  
10 determined that the Settlement and each of its terms, as set forth in the Stipulation, to  
11 be in the best interests of Puma.

12 As consideration for the Settlement, Puma has agreed to implement and  
13 maintain the corporate governance reforms set forth in Exhibit A to the Stipulation  
14 ("Reforms"). The Reforms shall be maintained by Puma for a period of not less than  
15 five (5) years. Puma and the Individual Defendants acknowledge that the prosecution  
16 and settlement of the Actions was a substantial and material factor in the Company's  
17 decision to adopt and/or implement the Reforms, and agree that the Reforms are  
18 significant and extensive and confer substantial benefits upon Puma and its  
19 shareholders.

20 The Reforms are specifically designed to address the alleged wrongdoing by  
21 increasing direct Board and executive oversight over the Company's public  
22 disclosures and disclosure controls, and improving the overall independence,  
23 competence, and effectiveness of the Board. The Reforms provide for, among other  
24 things:

25 • The appointment of one new Independent Director, which brings the  
26 Board to seven members, as well as procedures for identifying the new Independent  
27 Director;

1           • Stockholder input for the new Independent Director and future director  
2 nominees, as well as a requirement that the Nominating and Governance Committee  
3 consider such nominees and include their deliberations with respect to director  
4 nominees in the minutes of their proceedings;

5           • Enhanced board independence requiring two-thirds of the members of the  
6 Board (as opposed to the current majority) satisfy a list of heightened independence  
7 requirements beyond those set forth in the NASDAQ listing standards and the  
8 Sarbanes-Oxley Act;

9           • Formal continuing education program for directors that requires both an  
10 annual presentation focused on a topic of particular importance to the Company, as  
11 well as a multi-day training course every three years;

12           • Requirement that nonemployee directors own at least 10,000 shares of  
13 Puma common stock;

14           • Management's involvement, together with the Audit Committee, in  
15 assessing the adequacy of the Company's internal controls over financial reporting and  
16 disclosure controls and procedures, including reporting requirements in the  
17 Company's Form 10-K regarding any material weaknesses;

18           • Requirement that the Chief Financial Officer ("CFO") certify to the Audit  
19 Committee at least annually that CFO and/or the Company's outside auditor has  
20 performed a risk assessment pertaining to financial reporting risks and promptly  
21 addressed potentially unlawful activities;

22           • Creation of a Board-level Research and Development Committee ("R&D  
23 Committee"), requirements that certain members of the R&D Committee have  
24 scientific and/or medical expertise and an overlapping position on the Audit  
25 Committee, and required responsibilities of the R&D Committee, which include  
26 overseeing the Company's product pipeline and research and development efforts,  
27 including oversight and evaluation of the Company's clinical trials and clinical

1 development risk, as well as reviewing and pre-approving all material public  
2 disclosures related to the Company's product pipeline and research and development  
3 efforts. The Research and Development Committee shall also have quarterly meetings  
4 with the Chief Medical and Scientific Officer and provide quarterly presentations to  
5 the entire Board;

6       • Requirement that the Compensation Committee consider officers'  
7 performance as it relates to legal compliance and compliance with the Company's  
8 internal policies and procedures in determining the compensation and termination  
9 benefits of officers;

10      • Requirement that the Audit Committee inform the full Board of any  
11 material suspected errors in the Company's independent audits or books and records,  
12 and timely inform the full Board if the Company appears to have insufficient liquidity;

13      • Stockholders' ability to call special meetings of the Board;  
14      • Heightened requirements for approval and disclosure of related party  
15 transactions; and

16      • Enhanced requirements relating to the Company's whistleblower hotline,  
17 including documentation of complaints and/or investigations, external auditor review,  
18 and escalation to the Board.

19      This Notice provides a summary of some, but not all, of the Reforms that Puma  
20 has agreed to adopt as consideration for the Settlement. For a list of all of the  
21 Reforms, please see Exhibit A to the Stipulation, which is available for viewing from  
22 the Court or on Puma's website at [www.puma.com](http://www.puma.com).

23 **V. DISMISSAL AND RELEASES**

24      The Settlement is conditioned upon the occurrence of certain events, which  
25 include, among other things: (i) final approval of the Settlement by the Court  
26 following notice to Applicable Puma Shareholders and the Settlement Hearing  
27 contemplated by the Stipulation; (ii) Court entry of the Judgment, approving the  
28

1 Settlement and dismissing with prejudice the van der Gracht de Rommerswael Action,  
2 without awarding costs to any Party, except as provided herein; (iii) State Court  
3 issuance of an order dismissing the State Actions with prejudice; and (iv) Court  
4 issuance of an order dismissing the Duran Action with prejudice (the "Effective  
5 Date").

6 Upon the Effective Date, the Releasing Persons shall be deemed to have fully,  
7 finally, and forever released, relinquished, and discharged the Released Claims  
8 (including Unknown Claims) against the Released Persons and any and all derivative  
9 claims arising out of, relating to, or in connection with the defense, settlement, or  
10 resolution of the Federal Actions and the State Actions against the Released Persons.  
11 Nothing herein shall in any way impair or restrict the rights of any Settling Party to  
12 enforce the terms of the Stipulation.

13 Except as set forth in paragraph 5.3 of the Stipulation, upon the Effective Date,  
14 each of the Defendants shall be deemed to have fully, finally, and forever released,  
15 relinquished, and discharged Federal Plaintiffs, Federal Plaintiffs' Counsel, State  
16 Plaintiffs, and State Plaintiffs' Counsel from all claims (including claims related to  
17 Unknown Claims), arising out of, relating to, or in connection with the institution,  
18 prosecution, assertion, settlement, or resolution of the Federal Actions, the State  
19 Actions, or the Released Claims. Nothing herein shall in any way impair or restrict  
20 the rights of any Settling Party to enforce the terms of the Stipulation.

21 **VI. PLAINTIFFS' ATTORNEYS' FEES AND EXPENSES**

22 After negotiating the substantive terms of the settlement, the Settling Parties  
23 discussed a fair and reasonable sum to be paid to Plaintiffs' Counsel for their  
24 attorneys' fees and expenses. The Settling Parties engaged in an all-day, in-person  
25 formal mediation before Gregory P. Lindstrom and ultimately accepted his mediator's  
26 proposal as to the amount of attorneys' fees and expenses to be paid to Plaintiffs'  
27 Counsel. In recognition of the substantial benefits conferred upon Puma as a direct

1 result of the prosecution and Settlement of the Actions, and subject to Court approval,  
2 the Individual Defendants shall cause their insurers to pay Plaintiffs' Counsel the  
3 agreed-to amount of \$1,175,000 (the "Fee and Expense Amount"). To date, Plaintiffs'  
4 Counsel have neither received any payment for their services in conducting the  
5 Actions, nor have counsel been reimbursed for their out-of-pocket expenses incurred.  
6 The Settling Parties believe that the sum agreed to is within the range of attorneys'  
7 fees and expenses approved by courts under similar circumstances in litigation of this  
8 type. Puma's shareholders are not personally liable for the payment of any award of  
9 attorneys' fees and expenses.

10 Plaintiffs' Counsel may apply to the Court for service awards of up to \$1,500  
11 for each of the Plaintiffs, only to be paid upon Court approval, and to be paid from the  
12 Fee and Expense Amount in recognition of Plaintiffs' participation and effort in the  
13 prosecution of the Actions. Neither Puma nor any of the Individual Defendants shall  
14 be liable for any portion of any service awards.

## 15 **VII. THE SETTLEMENT HEARING**

16 The Settlement Hearing will be held before the Honorable Andrew J. Guilford,  
17 at the U.S. District Court for the Central District of California, Ronald Reagan Federal  
18 Building and United States Courthouse, Santa Ana Division, 411 West 4th Street,  
19 Court 10D, Los Angeles, California 92701 (the "Settlement Hearing"), at which the  
20 Court will determine: (i) whether the terms of the Stipulation should be approved as  
21 fair, reasonable, and adequate; (ii) whether the Notice fully satisfied the requirements  
22 of Rule 23.1 of the Federal Rule of Civil Procedure and the requirements of due  
23 process; (iii) whether all Released Claims against the Released Persons should be  
24 fully and finally released; (iv) whether the agreed-to Fee and Expense Amount should  
25 be approved; and (v) such other matters as the Court may deem appropriate. The  
26 Settlement Hearing may be continued by the Court at the Settlement Hearing, or at  
27 any adjourned session thereof without further notice.

28

1     **VIII. THE RIGHT TO OBJECT AND/OR BE HEARD AT THE HEARING**

2           Any Applicable Puma Shareholder may object and/or appear and show cause, if  
3 he, she, or it has any concern, why the Settlement should not be approved as fair,  
4 reasonable, and adequate, or why the Judgment should not be entered thereon, or why  
5 the amount of attorneys' fees and reimbursement of expenses should not be approved.  
6 However, unless otherwise ordered by the Court, you shall only be heard or entitled to  
7 contest the approval of the terms and conditions of the Settlement, or, if approved, the  
8 Judgment to be entered thereon approving the same, or the amount of attorneys' fees  
9 and reimbursement of expenses to Plaintiffs' Counsel, unless you have, ***at least***  
10 ***fourteen (14) calendar days prior to the Settlement Hearing***, filed with the Court a  
11 written notice of objection containing the following information:

12           1.     Your name, legal address, and telephone number;  
13           2.     The case name and number (*van der Gracht de Rommerswael v.*  
14 *Auerbach*, No. 8:18-cv-00236-AG-JCG);  
15           3.     Proof of being a Puma shareholder currently and as of September 28,  
16 2018;  
17           4.     The date(s) you acquired your Puma shares;  
18           5.     A statement of each of each objection being made;  
19           6.     Notice of whether you intend to appear at the Settlement Hearing (you  
20 are not required to appear); and  
21           7.     Copies of any papers you intend to submit to the Court, along with the  
22 names of any witness(es) you intend to call to testify at the Settlement Hearing and the  
23 subject(s) of their testimony.

24           If you wish to object to the proposed Settlement, you must file the written  
25 objection described above with the Court on or before \_\_\_\_\_, 2018. All written  
26 objections and supporting papers must be filed with the Clerk of the Court, U.S.  
27 District Court for the Central District of California, Ronald Reagan Federal Building  
28

Case 8:18-cv-00236-AG-JCG Document 17-1 Filed 09/28/18 Page 57 of 70 Page ID #:169

1 and United States Courthouse, Santa Ana Division, 411 West 4th Street, Room 1053,  
2 Los Angeles, California 92701 and serve such materials by that date, to each of the  
3 following Settling Parties' counsel:

4 *Counsel for Plaintiffs:*

5 Ashley R. Rifkin  
6 ROBBINS ARROYO LLP  
7 600 B Street, Suite 1900  
San Diego, CA 92101

8 and

9 Phillip Kim  
10 THE ROSEN LAW FIRM, P.A.  
275 Madison Avenue, 34th Floor  
New York, NY 10016

11 *Counsel for Defendants:*

12 Ryan E. Blair  
13 COOLEY LLP  
14 4401 Eastgate Mall  
San Diego, CA 92121

15 YOUR WRITTEN OBJECTIONS MUST BE POSTMARKED OR ON FILE  
16 WITH THE CLERK OF THE COURT NO LATER THAN \_\_\_\_\_, 2018.  
17 Only shareholders who have filed and delivered valid and timely written notices of  
18 objection will be entitled to be heard at the Settlement Hearing unless the Court orders  
19 otherwise.

20 Unless otherwise ordered by the Court, any Applicable Puma Shareholder who  
21 does not make his, her, or its objection in the manner provided herein shall be deemed  
22 to have waived such objection and shall forever be barred and foreclosed from making  
any objection to the fairness, reasonableness, or adequacy of the Settlement, or to  
otherwise be heard, and shall otherwise be bound by the Judgment to be entered and  
the releases to be given.

23 **IX. EXAMINATION OF PAPERS AND INQUIRIES**

24 There is additional information concerning the Settlement available in the  
25 Stipulation, which is available for viewing on the website Puma at  
26 www.\_\_\_\_\_com. You may also inspect the Stipulation during business  
27 hours at the office of the Clerk of the Court, U.S. District Court for the Central

Case 8:18-cv-00236-AG-JCG Document 17-1 Filed 09/28/18 Page 58 of 70 Page ID #:170

1 District of California, Ronald Reagan Federal Building and United States Courthouse,  
2 Santa Ana Division, 411 West 4th Street, Room 1053, Los Angeles, California 92701.  
3 Or you can call Robbins Arroyo LLP, 600 B Street, Suite 1900, San Diego, California  
4 92101, telephone: (619) 525-3990 or The Rosen Law Firm, P.A., 275 Madison  
5 Avenue, 34th Floor, New York, New York 10016, telephone: (212) 686-1060, for  
6 additional information concerning the settlement.

7

**PLEASE DO NOT CONTACT THE COURT OR PUMA  
REGARDING THIS NOTICE.**

8

9 DATED:

10 BY ORDER OF THE COURT UNITED STATES  
11 DISTRICT COURT OF THE CENTRAL DISTRICT  
12 OF CALIFORNIA

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

1290238\_2

28

- 12 -

---

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF SHAREHOLDER DERIVATIVE ACTION  
CASE NO. SACV 18-00236 AG (JCGx)

# Exhibit D

Case 8:18-cv-00236-AG-JCG Document 17-1 Filed 09/28/18 Page 60 of 70 Page ID #:172

1 ROBBINS ARROYO LLP  
2 BRIAN J. ROBBINS (190264)  
3 brobbins@robbinsarroyo.com  
4 KEVIN A SEELY (199982)  
5 kseely@robbinsarroyo.com  
6 ASHLEY R. RIFKIN (246602)  
7 arifkin@robbinsarroyo.com  
8 600 B Street, Suite 1900  
9 San Diego, CA 92101  
10 Telephone: (619) 525-3990  
11 Facsimile: (619) 525-3991

12 *Counsel for Plaintiff Arnaud van der*  
13 *Gracht de Rommerswael*

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

12 ARNAUD VAN DER GRACHT DE  
13 ROMMERSWAEL, Derivatively on  
14 Behalf of PUMA BIOTECHNOLOGY,  
15 INC.,

16 Plaintiff,

17 v.

18 ALAN H. AUERBACH, CHARLES R.  
19 EYLER, JAY M. MOYES, TROY E.  
20 WILSON, ADRIAN M.  
21 SENDEROWICZ, FRANK E. ZAVRL,  
22 and THOMAS R. MALLEY,

23 Defendants,

24 -and-

25 PUMA BIOTECHNOLOGY, INC., a  
26 Delaware corporation,

27 Nominal Defendant.

Case No. 8:18-cv-00236-AG-JCG

SUMMARY NOTICE OF  
PENDENCY AND PROPOSED  
SETTLEMENT OF SHAREHOLDER  
DERIVATIVE ACTION

**EXHIBIT D**

Case 8:18-cv-00236-AG-JCG Document 17-1 Filed 09/28/18 Page 61 of 70 Page ID #:173

1 TO: **ALL OWNERS OF THE COMMON STOCK OF PUMA  
2 BIOTECHNOLOGY, INC. ("PUMA" OR THE "COMPANY")  
3 CURRENTLY AND AS OF SEPTEMBER 28, 2018:**

4 IF YOU ARE A RECORD OR BENEFICIAL OWNER AND WERE A  
5 RECORD OR BENEFICIAL OWNER OF PUMA COMMON STOCK AS OF  
6 SEPTEMBER 28, 2018, PLEASE READ THIS NOTICE CAREFULLY AND IN ITS  
7 ENTIRETY AS YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN  
THE ABOVE-REFERENCED LITIGATION.

8 PLEASE TAKE NOTICE that the parties to the above-captioned shareholder  
9 derivative action, as well as the parties to the shareholder derivative actions titled, *Xie*  
10 *v. Auerbach*, Case No. BC616617 (Cal. Super. Ct.-L.A. Cty.), *McKenney v. Auerbach*,  
11 Case No. BC617059 (Cal. Super. Ct.-L.A. Cty.), and *Duran v. Auerbach*, Case No.  
12 2:18-cv-04802-AG-DFM (C.D. Cal.) (collectively, the "Actions"), have reached an  
13 agreement to settle the derivative claims brought on behalf of and for the benefit of  
14 Puma.

15 The terms of the settlement are set forth in a Stipulation of Settlement dated  
16 September 28, 2018 (the "Stipulation").<sup>1</sup> This notice should be read in conjunction  
17 with, and is qualified in its entirety by reference to, the text of the Stipulation, which  
18 has been filed with the U.S. District Court for the Central District of California. A  
19 link to the text of the Stipulation and the full-length Notice of Pendency and Proposed  
20 Settlement of Shareholder Derivative Action may be found on the Investor Relations  
21 page of Puma's website at [www.puma.com](http://www.puma.com).

22 Under the terms of the Stipulation, as a part of the proposed Settlement, Puma  
23 will adopt and/or implement corporate governance reforms, which all parties agree  
24 confer substantial benefits upon Puma. The independent, non-defendant directors on  
25

26 \_\_\_\_\_  
27 <sup>1</sup> All capitalized terms herein have the same meanings as set forth in the Stipulation.  
28

Case 8:18-cv-00236-AG-JCG Document 17-1 Filed 09/28/18 Page 62 of 70 Page ID #:174

1 Puma's Board, in exercising their business judgment, approved the proposed  
 2 Settlement, and its terms, as in the best interests of Puma and its shareholders.

3 In light of the substantial benefits conferred upon Puma by Plaintiffs' Counsel's  
 4 efforts, the Company's insurers shall pay Plaintiffs' Counsel's attorney's fees, costs,  
 5 and expenses of \$1,175,000, subject to Court approval.

6 A hearing will be held on \_\_\_\_\_, 2018 at \_\_\_\_\_.m., before the  
 7 Honorable Andrew J. Guilford, at the U.S. District Court for the Central District of  
 8 California, Ronald Reagan Federal Building and United States Courthouse, Santa Ana  
 9 Division, 411 West 4th Street, Court 10D, Los Angeles, California 92701 (the  
 10 "Settlement Hearing"), at which the Court will determine whether to approve the  
 11 settlement.

12 Any Puma shareholder has a right, but is not required, to appear and to be heard  
 13 at the Settlement Hearing, providing that he, she, or it is a shareholder of record or  
 14 beneficial owner of Puma common stock and was a shareholder of record or beneficial  
 15 owner of Puma common stock as of September 28, 2018. Any Puma shareholder who  
 16 satisfies this requirement may enter an appearance through counsel of such  
 17 shareholder's own choosing and at such shareholder's own expense, or may appear on  
 18 their own. However, you shall not be heard at the Settlement Hearing unless, no later  
 19 than \_\_\_\_\_, 2018, you have filed with the Court a written notice of objection  
 20 containing the following information:

- 21 1. Your name, legal address, and telephone number;
- 22 2. The case name and number (*van der Gracht de Rommerswael v.*  
 23 *Auerbach*, No. 8:18-cv-00236-AG-JCG);
- 24 3. Proof of being a Puma shareholder currently and as of September 28,  
 25 2018;
- 26 4. The date(s) you acquired your Puma shares;
- 27 5. A statement of each of each objection being made;

Case 8:18-cv-00236-AG-JCG Document 17-1 Filed 09/28/18 Page 63 of 70 Page ID #:175

1       6. Notice of whether you intend to appear at the Settlement Hearing (you  
2 are not required to appear); and

3       7. Copies of any papers you intend to submit to the Court, along with the  
4 names of any witness(es) you intend to call to testify at the Settlement Hearing and the  
5 subject(s) of their testimony.

6       If you wish to object to the proposed Settlement, you must file the written  
7 objection described above with the Court on or before \_\_\_\_\_, 2018. All written  
8 objections and supporting papers must be filed with the Clerk of the Court, U.S.  
9 District Court for the Central District of California, Ronald Reagan Federal Building  
10 and United States Courthouse, Santa Ana Division, 411 West 4th Street, Room 1053,  
11 Los Angeles, California 92701 and served upon each of the following Settling Parties'  
12 counsel:

13       *Counsel for Plaintiffs:*

14       Ashley R. Rifkin  
15       ROBBINS ARROYO LLP  
16       600 B Street, Suite 1900  
17       San Diego, CA 92101

18       and

19       Phillip Kim  
20       THE ROSEN LAW FIRM, P.A.  
21       275 Madison Avenue, 34th Floor  
22       New York, NY 10016

13       *Counsel for Defendants:*

14       Ryan E. Blair  
15       COOLEY LLP  
16       4401 Eastgate Mall  
17       San Diego, CA 92121

21       YOUR WRITTEN OBJECTIONS MUST BE POSTMARKED OR ON FILE  
22       WITH THE CLERK OF THE COURT NO LATER THAN \_\_\_\_\_, 2018.  
23       Only shareholders who have filed and delivered valid and timely written notices of  
24       objection will be entitled to be heard at the Settlement Hearing unless the Court orders  
25       otherwise. If you fail to object in the manner and within the time prescribed above  
26       you shall be deemed to have waived your right to object (including the right to appeal)

Case 8:18-cv-00236-AG-JCG Document 17-1 Filed 09/28/18 Page 64 of 70 Page ID #:176

1 and shall forever be barred, in this proceeding or in any other proceeding, from raising  
2 such objection(s).

3 Inquiries may be made to Plaintiffs' Counsel: Robbins Arroyo LLP, 600 B  
4 Street, Suite 1900, San Diego, CA 92101, telephone: (619) 525-3990; and The Rosen  
5 Law Firm, P.A., 275 Madison Avenue, 34th Floor, New York, NY 10016, telephone:  
6 (212) 686-1060.

7 **PLEASE DO NOT CONTACT THE COURT OR PUMA  
8 REGARDING THIS NOTICE**

9  
10 DATED:

11 BY ORDER OF THE COURT UNITED STATES  
12 DISTRICT COURT OF THE CENTRAL DISTRICT  
13 OF CALIFORNIA

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
1290542

- 4 -

---

SUMMARY NOTICE OF PENDENCY & PROPOSED SETTLEMENT OF S'HOLDER DERIVATIVE ACTION  
CASE NO. SACV 18-00236 AG (JCGx)

# Exhibit E

1

2

3

4

5

6

7

8

UNITED STATES DISTRICT COURT

9

CENTRAL DISTRICT OF CALIFORNIA

10

11 ARNAUD VAN DER GRACHT DE  
12 ROMMERSWAEL, Derivatively on  
13 Behalf of PUMA BIOTECHNOLOGY,  
14 INC.,

Plaintiff,

15

v.

16

17 ALAN H. AUERBACH, CHARLES R.  
18 EYLER, JAY M. MOYES, TROY E.  
19 WILSON, ADRIAN M.  
20 SENDEROWICZ, FRANK E. ZAVRL,  
21 and THOMAS R. MALLEY,

Defendants,

20

-and-

21

22 PUMA BIOTECHNOLOGY, INC., a  
Delaware corporation,

Nominal Defendant.

23

24

25

26

27

28

Case No. 8:18-cv-00236-AG-JCG

[PROPOSED] ORDER AND FINAL  
JUDGMENT

**EXHIBIT E**

1        This matter came before the Court for hearing on \_\_\_\_\_, 2018, to  
2 consider approval of the proposed settlement ("Settlement") set forth in the Stipulation  
3 of Settlement dated September 28, 2018, and the exhibits thereto (the "Stipulation").  
4 The Court has reviewed and considered all documents, evidence, objections (if any),  
5 and arguments presented in support of or against the Settlement. Good cause  
6 appearing therefore, the Court enters this Judgment.

7        IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

8        1. This Judgment incorporates by reference the definitions in the  
9 Stipulation, and all capitalized terms used herein shall have the same meanings as set  
10 forth in the Stipulation.

11        2. This Court has jurisdiction over the subject matter of the van der Gracht  
12 de Rommerswael Action, including all matters necessary to effectuate the Settlement,  
13 and over all Settling Parties to the van der Gracht de Rommerswael Action.

14        3. The Court finds that the Notice provided to Puma shareholders  
15 constituted the best notice practicable under the circumstances. The Notice fully  
16 satisfied the requirements of Rule 23.1 of the Federal Rules of Civil Procedure and the  
17 requirements of due process.

18        4. The Court finds that the Settlement as set forth in the Stipulation is fair,  
19 reasonable, adequate, and in the best interests of Puma and its shareholders.

20        5. The van der Gracht de Rommerswael Action and all claims contained  
21 therein, as well as all of the Released Claims against Released Persons, are dismissed  
22 with prejudice. The Settling Parties are to bear their own costs, except as otherwise  
23 provided in the Stipulation.

24        6. Upon the Effective Date, the Releasing Persons shall be deemed to have  
25 fully, finally, and forever released, relinquished, and discharged the Released Claims  
26 (including Unknown Claims) against the Released Persons and any and all derivative  
27 claims arising out of, relating to, or in connection with the defense, settlement, or

1 resolution of the Federal Actions and the State Actions against the Released Persons.  
2 Nothing herein shall in any way impair or restrict the rights of any Settling Party to  
3 enforce the terms of the Stipulation.

4       7. Except as set forth in paragraph 5.3 in the Stipulation, upon the Effective  
5 Date, each of the Defendants shall be deemed to have fully, finally, and forever  
6 released, relinquished, and discharged Federal Plaintiffs, Federal Plaintiffs' Counsel,  
7 State Plaintiffs, and State Plaintiffs' Counsel from all claims (including claims related  
8 to Unknown Claims), arising out of, relating to, or in connection with the institution,  
9 prosecution, assertion, settlement, or resolution of the Federal Actions, the State  
10 Actions, or the Released Claims. Nothing herein shall in any way impair or restrict  
11 the rights of any Settling Party to enforce the terms of the Stipulation.

12       8. During the course of the litigation, all parties and their respective counsel  
13 at all times complied with the requirements of Rule 11 of the Federal Rules of Civil  
14 Procedure, and all other similar laws or statutes, including Section 128.7 of the  
15 California Code of Civil Procedure.

16       9. The Court hereby approves the sum of \$1,175,000 for the payment of  
17 Plaintiffs' Counsel's attorneys' fees and expenses in the Actions ("Fee and Expense  
18 Amount"), and finds that the Fee and Expense Amount is fair and reasonable. No  
19 other fees, costs, or expenses may be awarded to Plaintiffs' Counsel in connection  
20 with the Settlement. The Fee and Expense Amount shall be distributed in accordance  
21 with the terms of the Stipulation.

22       10. The Court hereby approves the service awards of \$1,500 for each of the  
23 Plaintiffs to be paid from Plaintiffs' Counsel's Fee and Expense Amount in recognition  
24 of Plaintiffs' participation and effort in the prosecution of the Actions.

25       11. Neither the Stipulation nor the Settlement, nor any act performed or  
26 document executed pursuant to or in furtherance of the Stipulation or the Settlement:  
27 (a) is or may be deemed to be or may be offered, attempted to be offered, or used in

1 any way by the Settling Parties or any other Person as a presumption, a concession, or  
2 an admission of, or evidence of, any fault, wrongdoing, or liability of the Settling  
3 Parties or Released Persons, or of the validity of any Released Claims; or (b) is  
4 intended by the Settling Parties to be offered or received as evidence or used by any  
5 other person in any other actions or proceedings, whether civil, criminal, or  
6 administrative, other than to enforce the terms therein.

7       12. The Released Persons may file the Stipulation and/or the Judgment, and  
8 file or reference acts performed or documents executed pursuant to or in furtherance  
9 of the Stipulation and/or the Judgment: (i) in any action that may be brought against  
10 them in order to support a defense or counterclaim based on principles of *res judicata*,  
11 collateral estoppel, full faith and credit, release, good faith settlement, judgment bar or  
12 reduction, or any other theory of claim preclusion or issue preclusion or similar  
13 defense or counterclaim; (ii) in furtherance of the Settlement contemplated in the  
14 Stipulation; and (iii) in any action to enforce the Settlement.

15       13. Without affecting the finality of this Judgment in any way, this Court  
16 hereby retains continuing jurisdiction with respect to implementation and enforcement  
17 of the terms of the Stipulation. If for any reason the Effective Date does not occur, or  
18 if the Stipulation is in any way canceled, terminated or fails to become Final in  
19 accordance with its terms, then: (a) all Settling Parties and Released Persons shall be  
20 restored to their respective positions in the Federal Actions and the State Actions as of  
21 July 30, 2018; (b) all releases delivered in connection with the Stipulation shall be null  
22 and void, except as otherwise provided for in the Stipulation; (c) the Fee and Expense  
23 Amount paid to Plaintiffs' Counsel shall be refunded and returned within ten (10)  
24 business days; and (d) all negotiations, proceedings, documents prepared, and  
25 statements made in connection herewith shall be without prejudice to the Settling  
26 Parties, shall not be deemed or construed to be an admission by a Settling Party of any  
27 act, matter, or proposition, and shall not be used in any manner for any purpose in any  
28

1 subsequent proceeding in the Federal Actions, the State Actions, or in any other action  
2 or proceeding. In such event, the terms and provisions of the Stipulation shall have no  
3 further force and effect with respect to the Settling Parties and shall not be used in the  
4 Federal Actions, the State Actions or in any other proceeding for any purpose.

5       14. Pursuant to Rule 23.1 of the Federal Rules of Civil Procedure, this Court  
6 hereby finally approves the Stipulation and Settlement in all respects, and orders the  
7 Settling Parties to perform its terms to the extent the Settling Parties have not already  
8 done so.

9       15. This Judgment is a final judgment, and the Court finds that no just reason  
10 exists for delay in entering the Judgment in accordance with the Stipulation.  
11 Accordingly, the Clerk is hereby directed to enter this Judgment forthwith in  
12 accordance with Rule 58 of the Federal Rules of Civil Procedure.

## IT IS SO ORDERED.

DATED:

HONORABLE ANDREW J. GUILFORD  
U.S. DISTRICT JUDGE

1290374